

**LICENSING SUB-COMMITTEE
9th April, 2024**

Present:- Councillor Ellis (in the Chair); Councillors Cooksey and Jones.

CONSIDERATION OF AN APPLICATION (MADE IN ACCORDANCE WITH S.17 OF THE LICENSING ACT 2003) FOR THE GRANT OF A PREMISES LICENCE IN RESPECT THE PREMISES TO BE KNOWN AS LA SANDY SITUATED AT 34 KIMBERWORTH ROAD, ROTHERHAM S61 1AE

Further to Minute No. 21 of 13th March, 2024, the Licensing Sub-Committee reconvened to give consideration to an application (made in accordance with Section 17 of the Licensing Act 2003) for the grant of a Premises Licence in respect of the premises to be known as La Sandy situated at 34 Kimberworth Road, Rotherham S61 1AE.

The previous meeting had been adjourned to allow the applicant sufficient time to carry out a further review of the application and confirm that it correctly set out her requirements.

The applicant, Mrs. Denisa Mirela Linca, was seeking authorisation to allow the sale of alcohol for consumption on the premises on each of the days Monday to Thursday between 1000 hours and 2200 hours and on Friday, Saturday and Sunday between 1000 hours and 2300 hours Mrs. Linca has named herself as the Designated Premises Supervisor and held a Personal Licence.

When the applicant had first been submitted on 17th January, 2024, it had sought consent to allow the sale of alcohol and the provision of live and recorded music at the premises. This had been amended on 8th February and the request to allow live and recorded music withdrawn from the application with immediate effect.

It was noted that a licence was not required for the playing of live or recorded music if a premises had an alcohol licence subject to certain criteria. Any condition attached to a licence referring to the playing of live or recorded music would not come into force until after the hours applied for i.e. in this case after 2200 hours Monday to Thursday and after 2300 hours on Friday, Saturday and Sunday.

Mrs. Linca was present together with her husband, Mr. Aurel Sandi – applicant's husband, and with the aid of Ms. Ina Spinei, Interpreter.

Consultation on the application had been carried out in accordance with all statutory requirements and the Council procedure. During the consultation period the Licensing Authority had made representations

LICENSING SUB-COMMITTEE – 09/04/24

seeking the addition of a further management control conditions which the applicant had agreed to include i.e:-

- A CCTV system shall be installed at premises and shall
 - Be maintained fully operational and in good working order at all times
 - Make and retain clear images
 - Show an accurate date and time that the images were made
- All CCTV images shall be retained for a period of not less than 31 days
- CCTV images shall be made immediately available for viewing, upon request, of the Police or an authorised officer of the Licensing Authority
- The original CCTV images, or a copy, shall be provided to any police officer or authorised officer of the Licensing Authority within 48 hours of a request having been made in a format that can be viewed on readily available equipment without the need for specialist software
- A member of staff trained on the operation of the CCTV system shall be on duty at the premises, or on call and available to attend the premises at all times the premises are open
- Signage shall be displayed in the customer area of the premises to advise that CCTV is in operation

The Council's Environmental Health Service had also made representations to the application which were ongoing.

No "Other Persons" had made representations to the application.

The representation made by the Environmental Health Services, in their role as a designated Responsible Authority under the Licensing Act 2003 included a request for a Noise Impact Survey to be carried out at the premises as the application failed to address how local residents would not be subject to noise nuisance. Their concerns centred on:-

- Upon receipt of the application checks had been made on the system and previous noise complaints had been logged. As a result a Noise Impact Survey was requested to be carried out as the premises were situated in a residential area and opposite a primary school
- The applicant had not been willing to have a Survey due to the cost

LICENSING SUB-COMMITTEE – 09/04/24

- On 14th February applications were submitted and approved for 2 Temporary Event Notices (TENs) for 22nd February and 8th March, 2024. However, the Out of Hours Team had witnessed music being played to a level that would have a detrimental effect to the locality on 22nd February. A Noise Abatement Notice had been served
- Monitoring visits throughout the duration of the 22nd February event were carried out and found that amplified music was being played at a level to constitute a statutory noise nuisance. A Noise Abatement Notice was served on 23rd February, 2024
- Further monitoring took place during the 8th March, 2024 event with visits made at 1913 hours and 2148 hours. On both occasions the officer witnessed live music coming from the premises at a level that was loud and likely to cause distress to residential properties in the area. However, due to the location of the officer at the time, it could not be stated that it would be a statutory nuisance at the time
- Due to the design it would not prevent sound from emitting from the property. If there was music during the day, it would impact on the children within the school opposite

The applicant, with the assistance of the interpreter, responded to the issues raised and made the following points:-

- A device had purchased that measured sound levels. The level would be at 82 dB
- Music would only be played on Friday, Saturday and Sunday after 1600 hours
- They would make sure that the music was not loud
- They were not aware of any complaints and would make sure they followed the conditions attached to the licence
- They would have the assistance of someone to translate the licence for them to ensure that they followed everything
- Their 22 year old son would be in charge of measuring the sound levels and the CCTV. He would be present all the time
- There would only be live music 4 times a year including Christmas and New Year. The remainder of the time it would be background music
- The desire for an alcohol licence was due to the provision of BBQ food. Alcohol would only be sold to those who purchased food

It was felt that the applicant required further information with regard to noise levels. Environmental Health suggested that the level should be more in the region of 40-50 dB in an evening and 60 dB in a day.

LICENSING SUB-COMMITTEE – 09/04/24

Following the information provided at the hearing, the objections made by Environmental Health still stood.

Resolved:- That the application for the grant of a Premises Licence in respect of the premises to be known as La Sandy situated at 34 Kimberworth Road, Rotherham S61 1AE be approved subject to the conditions agreed with the applicant.