



RECORD OF DECISION

To be completed and signed before Members return to open session to announce their decision.

RECORD OF DECISION: APPLICATION UNDER LICENSING ACT 2003

Licensing Sub-Committee
Date: 15th May 2025

Members:

1. Cllr Rosy Moore
2. Cllr Pounds
3. Cllr MCpherson (Chair)

To consider the application by **La Cucina Di Nonna Ltd** dated 10 March 2025 for a new premises licence in respect of A Taste of Sicily, 106 Cherry Hinton Road, Cambridge CB1 7AJ, to commence 15 April 2025

We heard representations from the following persons:

Mr Rosario Gattuso (for the Applicant)

During the period for representations a total of 5 valid representations were received from 'other persons' (some on conditions of anonymity) including

- Councillor Karen Young, Ward Councillor for Queen Edith. (to speak on behalf of residents) and
- Councillor Blackburn-Horgan.
- Upper Rock Road Resident's Association

The reason the Sub-Committee was held:

Cambridge City Council as the Licensing Authority has received an application for a new Premises Licence. The Application was received on the 10 March 2025. As

required under the Licensing Act 2003, notice of the application was advertised by blue notices displayed at or near the premises and in the local newspaper and the last date for receiving representations was 7 April 2025.

The Premises Licence application initially requested the following:

Supply of Alcohol (for consumption both on and off the premises)

- Monday to Sunday between the hours of 11:00 and 23:00.
- New Year's Eve until 02:00

Recorded Music (Indoors)

- Monday to Sunday between the hours of 11:00 and 23:00
- New Year's Eve until 02:00

These hours were subsequently amended by the Applicant following pre-application discussions with Environmental Health. The Premises will close at 22:00 (to be aligned with planning conditions), and will stop serving alcohol at 21:30 to allow time for gradual patron dispersal, and as follows

Supply of Alcohol (for consumption both on and off the premises)

- Monday to Sunday between the hours of 11:00 and 21:30.
- New Year's Eve until 21:30

Recorded Music (Indoors)

- Monday to Sunday between the hours of 11:00 and 22:00
- New Year's Eve until 22:00

As part of the consultation the Responsible Authorities were consulted on the application. No representations were received from Responsible Authorities. However, Trading Standards provided applicant with Challenge 25 information and Environmental Health agreed conditions with applicant. These conditions, plus the amendments required by the Members, are incorporated to this ROD

In making our decision we considered the following:

- *The Licensing Act 2003*
- *The Section 182 Guidance*
- *The Council's Statement of Licensing Policy*
- *The Applicant's oral submissions*
- *The Interested parties' oral submissions*
- *The representations from interested parties not at the hearing*
- *Suggested amendments from the Applicant and Interested Parties*
- *Responses to questions asked by members and those attending the hearing*

We found the following facts:

Members noted that the premises has been trading as a traditional Italian restaurant and coffee bar with delivery, since February 2025. The applicant has not signed a formal lease, although this has been offered, and is in occupation under the terms of a

monthly oral agreement, which is terminable on notice. He is the sub-tenant of the previous premises licence holder and current tenant (Sunset Lounge). He does not want to take a lease until works required under an enforcement notice, which were only partially completed on 14 May 2025, have been finished.

Decision:

Having considered all the above, the Members determined to GRANT the application, as amended by the agreement with Environmental Health , and subject to the conditions below

The Licensing Authority will provides the following support:

- i. A licence inspection is undertaken after 6 months.

The Members acknowledged that the applicant has only recently started his business at the premises, and that it is staffed by only two people, i.e. Mr & Mrs Gattuso. There is a slightly chaotic management approach. The Members were concerned that the business is stretched to capacity, and Mr Gattuso is not currently committed to continuing or converting his oral licence to a lease until planning issues are resolved. The rear extension remains in breach of a planning enforcement notice. The Members had concerns that staff had limited formal training in respect of the refusal register (he admitted difficulty locating and running a refusals register.), and the operation of the challenge 25 policy. During the hearing the applicant offered not to use the rear area which remains in breach of planning.

The Members acknowledged the concerns of the Interested Parties regarding the location and proximity to residents who own properties to the rear of the premises and are concerned about noise coming directly from the premises into their gardens.

The Members noted that the Applicant had listened to the concerns of the Interested Parties and the comprehensive suggestions Environmental Health team. It had reduced licensable activities such that the restaurant would close at 22:00 rather than 23:00 and service of alcohol would cease at 21:30 to allow time from gradual patron dispersal. New Years Eve hours were similarly reduced. These actions were welcomed by the Committee. The fact that the Environmental health team did not oppose the amended hours sought weighed heavily with the committee.

Members noted that the Statutory Guidance (at 9.15) requires the Environmental Health team to make any relevant representations about noise nuisance. Members noted the EHO made no representations

The Members listened to the concerns of the Interested Party in relation to music. The additional provisions such as keeping all doors and windows closed after 7pm at night during operational hours; not playing music outside the premises, or in parked delivery vehicles; and asking patrons to leave the premises quietly and with consideration for neighbors (with Notices displayed to that effect) were welcome commitments to prevent noise and nuisance.

The evidence from the Interested Parties that the noise levels had or would be exceeding acceptable levels was not supported by the Environmental Health team. Members were therefore prepared to give the applicant the benefit of the doubt.

The Members noted the number of representations to the committee. The Members noted that The Government's Explanatory Notes to the 2003 Licensing Act states the prevention of public nuisance, will not extend to every activity which annoys another person but will cover behaviour which, when balanced against the public interest, is found to be unacceptable.

The Members were happy to agree the majority of other conditions suggested within Appendix 3, and amended terms below, as being appropriate and proportionate to promote the Licensing Objectives to prevent public nuisance, noting that these were agreed by the Applicant.

It was noted that the Applicant agreed, as an additional step to prevent nuisance that when either the police or an Environmental Health officer identifies a problem in the external seating area, the management will take all reasonable steps necessary to prevent the problem from continuing.

The Members were sympathetic to the concerns of the Interested Party who lived directly above the premises and gave evidence that the internal walls and ceilings were thin and transferred noise. The Members questioned whether this fell within the ambit of a **public nuisance**. Conditions relating to noise nuisance are not appropriate in circumstances where provisions in other legislation adequately protect them, such as the availability of an abatement Notice under the EPA 1990 s80 which might adequately protect those living in the area of the premises (section 2.24 Guidance).

Some residents were concerned about parking issue on adjacent residential roads but did not present any evidence linking it to Applicant.

The Members listened to the concerns about drunken behaviour. The Members are conscious that licensing is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals away from licensed premises and beyond the direct control of the licensee.

We did not consider the following matters to be relevant:

The previous unsatisfactory responses from Sunset Lounge during their tenure to resident's concerns about noise nuisance. Sunset Lounge's behaviour was not relevant to the Licensing Objectives. The applicant had to be judged on its own merits. Similarly, while the objectors speculated about a link, other than a relationship of landlord and tenant, between the applicant and Sunset lounge, the members found the applicant's denial of this credible and no other evidence was forthcoming to counter this.

The allegation that there had been a breach of planning rules and that the extension did not have the necessary permissions. Members are conscious that licensing is not the primary mechanism for either planning or building issues.

Interested Parties suggested the applicant intended to transfer the licence and sought a condition prohibiting this. This was not relevant. Additionally, it is ultra vires the committee's power and contrary to the aims of the legislation. An application has not been made to transfer and the applicant should not be prejudiced by speculation that it would consent to a transfer.

There does not appear to be any evidence that the protection of children from harm licensing objective would be undermined by granting a Licence at the Premises. Reference is made to the protection of children from harm licensing objective being undermined elsewhere (eg by children being unable to sleep at home at night), but this is a misunderstanding of how the protection of children from harm licensing objective works. Protecting children from harm is about how children are protected from moral, psychological, and physical harms *at licensed premises*. The protection of children from harm licensing objective does not extend to a wider duty to protect children e.g. at home or elsewhere.

Granting the application, as amended, would provide a balance between the commercial interests of the Applicant and the rights of residents. No additional conditions were proposed by the Responsible Authorities for members to consider.

The Members felt that these additional conditions would assist in promoting the Licensing Objectives and were appropriate and proportionate in that regard.

Signed

Russ McPherson

Dinah Pounds

Rosie Moore

15/05/25

The applicant or those who made a relevant representation has the right of appeal to a Magistrates Court within 21 days from the date of this decision notice by contacting: Cambridgeshire Magistrates Court, The Court House, Bridge Street, Peterborough, PE1 1ED.

Conditions

1. The Applicant is prohibited from serving alcohol in the rear exterior.
2. Prominent collections from and/ or deliveries to the premises; shall only take place between the hours of 07:00 and 22:00. This shall include the placing of waste, including bottles, into waste receptacles outside the premises and the emptying of waste receptacles outside the premises and the emptying of waste receptacles by a waste contractor.

3. All doors and windows will be kept closed during operational hours after 7.00 pm to prevent noise nuisances other than for access and egress.
4. Music will not be played outside the premises, or in delivery vehicles parked near the premises.
5. Patrons will be asked to leave the premises quietly and with due consideration for neighboring properties. Notices will be displayed in a prominent customer facing area to that effect.
6. Delivery drivers- are to be instructed to enter and leave their vehicles quietly and considerately; and 'not to leave engines running and to park considerately
7. The placing of waste including bottles into receptacles outside the premises and' collections from and/or deliveries to the premises. including the emptying of premises waste receptacles by waste contractors shall only take place between the hours of 07:00 and 22:00 to minimize disturbance to nearby properties.
8. A litter bin will be made available within the customer area.
9. If either the police or an Environmental Health officer identifies a problem in the external area, then the management will take all reasonable steps necessary to prevent the problem from continuing.
10. A 6 month inspection by Environmental Health will take place and, if recommended, a Review of the license.