

LICENSING SUB COMMITTEE15 May 2025
10.00 am - 1.55 pm**Present:** Councillors McPherson, Moore and Pounds

Also present Councillors: Clough and Young

Officers

Environmental Health Manager: Yvonne O'Donnell

Environmental Health and Licensing Support Team Leader: Wangari Njiiri

Legal Adviser: Ian Hawkins

Committee Manager: James Goddard

Present for the Applicant

Applicant: Mr Gattuso

FOR THE INFORMATION OF THE COUNCIL**25/16/Lic Appointment of a Chair**

Councillor McPherson was appointed as Chair for the meeting.

25/17/Lic Declarations of Interest

Name	Item	Interest
Councillor Moore	25/19/licsub	Personal: The application was in her ward.

25/18/Lic Meeting Procedure

All parties noted the procedure.

25/19/Lic A Taste of Sicily Hearing Report

The Environmental Health and Licensing Support Team Leader presented the report and outlined the application.

Applicant's Response to Officer Report

Mr Gattuso made the following points:

- i. He had nothing to do with Roxanna or their planning permission issues. Mr Gattuso's lawyer advised him not to sign the lease until work was complete. Mr and Mrs Gattuso would not pay any money to take over Taste of Sicily premises. This was a separate issue to the licensing procedure.
- ii. Was unsure where he stood regarding the alcohol licence. Would consider offering wine and beer, but people could bring their own alcohol. The main proposal was to offer food in a family restaurant environment.
- iii. No noise issues were expected for neighbours but Mr Gattuso was aware of historic complaints.
- iv. Mr Gattuso used to have a restaurant and alcohol licence for eight years (in the past) so had experience of these.

Member Questions

Mr Gattuso made the following statements in response to Members' questions:

- i. He did not put in a request for an alcohol licence. He proposed to have a restaurant with garden outside for family use.
- ii. Twenty four covers/customers were expected in the restaurant and sixteen outside.
- iii. Mrs Gattuso and another associate ran the Sunset Lounge. This was a separate area to the proposed restaurant.
- iv. The Sunset Lounge/Roxanna were the landlords and Mr Gattuso sublet from them. He wished to expand his business in future but only had the funds for a small premises at present.
- v. He had changed social media details to show he was not closely linked to show he was not linked to Roxanna. Customer reviews on social media confirmed his premises were linked to the Sunset Lounge.
- vi. He had CCTV provided by fixed units in the building and out the back. It was recorded and available as a thirty-one-day cycle.
- vii. Restaurant staff would be Mr and Mrs Gattuso. He did not expect troublesome customers in a family environment restaurant that would not sell alcohol. If Mrs Gattuso experienced difficulties she could call Mr

- Gattuso who had eight years of restaurant experience. They did not have training records to certify training required as listed in the Officer's report.
- viii. There was no refusal record in place at present for people who Mr/Mrs Gattuso refused to sell alcohol to. He used to have one but did not at present as he had no alcohol licence. He had never sold alcohol to anyone under eighteen in his previous restaurant.
 - ix. If people brought their own alcohol to his restaurant, Mr Gattuso would ask for ID before letting them drink it. Customers would be sent away if there was a concern about age. Mr and Mrs Gattuso knew how to deal with the situation. They would call the Police if there was trouble as they were the only two staff members.

Other Persons

Councillor Clough addressed the Committee as a Ward Councillor to express concerns about the site on behalf of residents in the area:

- i. Expected noise and disturbance until 11pm.
- ii. There was a link between this application and the previous site occupiers. The situation had been somewhat clarified, and the shed would be removed.
- iii. Outside toilets could be a source of noise.
- iv. Bins would be in the way of pedestrians.
- v. The Applicant had requested being able to play music to 2am.
- vi. The main licensing objective was to protect the public and maintain order. Any activity at night would disturb nearby residents.
- vii. Asked for the application to be refused.

The Legal Advisor referred to Environmental Health Officer conditions in Appendix 4 of the Officer's report as ways to address some concerns.

Councillor Young addressed the Committee as a Ward Councillor and said the Environmental Health Officer conditions did not cover all noise concerns. There could start from 5pm for young children.

Member Questions

Mr Gattuso made the following statements in response to Members' questions

- i. Noted Members noise concerns. There were a lot of these. The complaints referred to the old premises that was run like a club and was party orientated. His application was for a restaurant where people could eat and drink their own alcohol if they brought it with them.
- ii. People went in/out of local premises like the newsagent day and night so noise from his restaurant was comparable.
- iii. Would be happy to close earlier than 11pm such as 9pm if that helped licence conditions.
- iv. Mr and Mrs Gattuso would clean/tidy the premises. If customers finished around 9pm then Mr and Mrs Gattuso would leave around 10pm. He asked for 11pm closing time just in case it was needed.
- v. Customers could access the outside toilets by going through the conservatory; the toilets were 2m outside via a wooden covered walkway.

The Environmental Health Manager said there was a bit of land to the rear of the property where a shed/building had been demolished but the flooring was still in place. A Planning Officer confirmed 14 May 2025 the enforcement notice had been complied with.

Environmental Health Manager: The toilets were separate to the main building. The Environmental Health Manager showed pictures of the site to show the proposed layout.

Members sought to closely question contacts on some specific points:

- i. **Q)** Was it possible to condition not letting people use the rear of the property?

A) Legal advisor: It was possible to limit where alcohol was served but not food.

Mr Gattuso: The whole site would be a smoke free zone ie people could not smoke.

- ii. **Q)** There were concerns about passing on a licence. How much weight could be given to this by Councillors in making their decision?

A) Legal advisor: It was possible to transfer a licence. Anything else was ultra vires.

Environmental Health Manager: The Chief of Police could put in a representation if further evidence was received. Mean time the licence transfer could proceed on its own merits as per standard terms and conditions.

Mr Gattuso: The alcohol licence came with the premises that he was sublet, he was happy to surrender it.

Summing Up

Mr Gattuso made the following points:

- i. He did not need the back area of the premises, just the front and inside.
- ii. He could close 10pm rather than 11pm.
- iii. The premises would be a family orientated restaurant not a club. People could bring alcohol to drink or not as they wished.

The Environmental Health Manager made the following points on behalf of the Applicant:

- i. Members should consider the application on its own merits.
- ii. Referred to Environmental Health Officer conditions.
- iii. Planning considerations for the site were separate to licensing ones.

Members withdrew at 11:15am and returned at 1:25pm. Whilst retired, and having made their decision, Members received legal advice on the wording of the decision.

Decision

The Sub Committee resolved to grant the licence as amended by the agreement with Environmental Health, and subject to the conditions below:

The Licensing Authority would provide the following support:

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

Conditions

1. The Applicant was prohibited from serving alcohol in the rear exterior.
2. Prominent collections from and/ or deliveries to the premises; should only take place between the hours of 07:00 and 22:00 This should 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 would be kept closed during operational hours after 7.00 pm to prevent noise nuisances other than for access and egress.
4. Music would not be played outside the premises, or in delivery vehicles parked near the premises.
5. Patrons would be asked to leave the premises quietly and with due consideration for neighboring properties. Notices would 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 should only take place between the hours of 07:00 and 22:00 to minimize disturbance to nearby properties.
8. A litter bin would be made available within the customer area.
9. If either the police or an Environmental Health officer identified a problem in the external area, then the management would take all reasonable steps necessary to prevent the problem from continuing.
10. A 6-month inspection by Environmental Health would take place and, if recommended, a Review of the license.

Reasons for reaching the decision were as follows:

The Members acknowledged that the applicant has only recently started his business at the premises, and that it was staffed by only two people, i.e. Mr & Mrs Gattuso. There was a slightly chaotic management approach. The Members were concerned that the business was stretched to capacity, and Mr Gattuso was 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 neighbours (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 stated the prevention of public nuisance, would not extend to every activity which annoys another person but would cover behaviour which, when balanced against the public interest, was 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 would 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 was 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.

The meeting ended at 1.55 pm

CHAIR