

# Minutes

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## Licensing Sub-Committee Monday, 23rd November, 2020

### Attendance

Cllr J Cloke  
Cllr Tanner

Cllr Tierney

### Also Present

Cllr Mrs Davies  
Cllr McCheyne

### Officers Present

Paul Adams	- Principal Licensing Officer
Dave Leonard	- Licensing Officer
Alastair Lockhart	- Legal Adviser
Jean Sharp	- Governance and Member Support Officer
Maria Moses	- Licensing Officer

### 577. Appointment of Chair

Members **RESOLVED** that Cllr Cloke should Chair the hearing.

### 578. Administrative Function

Members were respectfully reminded that, in determining the matters listed below, they were exercising an administrative function with the civil burden of proof, i.e. 'on the balance of probabilities'. The matter would be determined on the facts before the Sub-Committee and the rules of natural justice would apply.

### 579. Licensing Act 2003 - Application to Review a Premises Licence - Dusk, Ongar Road, Pilgrims Hatch, Brentwood. CM15 9SS

The Sub-committee was reminded that an authorisation was required in respect of any premises where it was intended to conduct one or more of the four licensable activities, these being:

- Sale of alcohol
- Supply of alcohol (in respect of a club)
- Regulated Entertainment
- Provision of Late Night Refreshment

An appropriate authorisation was either, a premises licence, a club premises certificate or a Temporary Event Notice.

Licence holders were required, when offering any licensable activity, to ensure that they promoted the licensing objectives at all times. The operating schedule of the application contained details of the activities applied for and the control measures that the applicant would have in place in order to promote these objectives. Such measures would, where appropriate, be converted into enforceable conditions on any licence issued.

The four licensing objectives were:

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

Any representation must be able to demonstrate that on the balance of probability the application in its current form would fail to adequately promote one or more of the licensing objectives. No other matters might be considered.

An application had been received for a review of the premises licence in respect of ***Dusk, Ongar Road, Pilgrims Hatch, CM15 9SS***. Thirteen relevant representations had been received during the consultation period. The review related to the Licensing objective: **Prevention of Public Nuisance**.

The application for a Review of the premises licence at Dusk - a multi-cuisine, fine dining restaurant and lounge with function room - was received on 27 September 2020 from Mrs Bashir, a local resident in Ongar Road, Brentwood. Mrs. Bashir referred to noise nuisance and anti-social behaviour.

Representations were received from two Responsible Authorities - Environmental Health and The Licensing Authority of Brentwood Council regarding concerns over public noise nuisance especially in relation to the use of the outside smoking area at Dusk.

Eleven further representations had been received from six residential households and one councillor. The grievances all related to the noise nuisance being caused by the playing of late-night music in the outdoor lounge/smoking area and the noise cause by the patrons using this area. The subsequent dispersal of patrons in an otherwise quiet, semi-rural location also caused concern and contributed to the disruptive sleep patterns experienced by families.

The Licensing Officer, Ms Moses, introduced the report then Mrs Bashir addressed the Sub-committee regarding her request for the premises licence to be reviewed.

Mr Carter – Environmental Health Manager – and Mr Leonard – Licensing Officer – advised the sub-committee of their concerns in relation to noise nuisance.

Mr Billington, a local resident addressed the Sub-committee and Cllr McCheyne spoke on behalf of other local residents, both expressing concern over noise nuisance.

Ward Councillor Mrs Davies also addressed the Sub-committee expressing concern over noise nuisance and anti-social behaviour experienced by residents.

Mr Mahmood, representing the Dusk licence holders spoke in support of his clients, refuting some of the assertions regarding the sound levels and anti-social behaviour in the car park at his clients' premises.

In coming to their decision Sub-committee members considered the representations made regarding noise outbreak from the premises and also had regard to Brentwood Borough Council's own licensing statement and guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

The representations centered on the level of noise emanating from the premises outside lounge area, both music and customer noise, and the level of noise and disturbance that occurred when customers left the premises around closing time.

The Sub-committee felt that imposing conditions to curb the noise emanating from the premises was an appropriate and proportionate action in order to promote the prevention of public nuisance which on the basis of the representations Members determined was occurring.

The Sub-committee therefore decided that the following conditions would be placed on the Licence:

- That no live or recordable music to be played in the outside (lounge) area after 22:30 hrs. This should replace Condition 5 on Annex 3 already imposed on the Licence.
- That no live or recorded music shall be played in the outside (lounge) area between 12 noon and 22:30 hrs until an automatic noise limiting device has been installed and a noise limit agreed with Brentwood Borough Council's Environmental Health Team, such noise limit must not be exceeded at any time. This should replace Condition 7 of Annex 3 already imposed on the Licence.

- That a written noise management policy which was acceptable to Brentwood Borough Council Environmental Health Team be put in place and adhered to.

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