

28 August 2018

Licensing and Appeals Committee

**Licensing Sub-Committee Hearing in respect of an  
Application to vary a Premises Licence – Licensing Act 2003**

**PIVAZ, 90B-92A HIGH STREET, BRENTWOOD, CM14 4AP**

**Report of:** Maria Williams – Licensing Officer

**Wards Affected:** Brentwood South & North

**This report is:** Public

**1. Executive Summary**

- 1.1 An application has been received to vary a premises licence in respect of **Pivaz, 90B-92A High Street, Brentwood Essex, CM14 4AP**. Five relevant representations have been received. Members are requested to determine the application having regard to the operating schedule, the representations received, the Council's Statement of Licensing Policy and the four Licensing objectives.

**2. Recommendation(s)**

- 2.1 That the Sub Committee:

Considers this report and appendices together with any oral submissions at the hearing and determines the application in line with the options open to the sub-committee under the Licensing Act 2003: However, the available options are:

- i) To grant the application in full on the terms and conditions contained in the operating schedule along with any applicable mandatory conditions;
- ii) To grant the application, modified to such extent as considered appropriate in order to satisfy any relevant representations and to promote the licensing objectives; or
- iii) To refuse the application in whole or in part

### **3. Introduction and Background**

3.1 An authorisation is required in respect of any premises where it is 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

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

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

3.4 The four licensing objectives are;

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

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

### **4. The Application**

4.1 This application was received on 2<sup>nd</sup> July 2018 from Pivaz Brentwood Ltd. in respect of ***Pivaz, 90B-92A High Street, Brentwood, Essex, CM14 4AP.*** A copy of the application is attached at ***Appendix 1.***

4.2 This premise is currently a restaurant specialising in Mediterranean cuisine on a ground and first floor situated in Brentwood High Street, and it is currently

licensed for the Sale by Retail of Alcohol & Late Night Refreshment. A copy of the premises licence together with OS street maps and images to better identify the location are attached at **Appendix 2**.

4.3 The applicant seeks amend Annex 3 condition to:

***“All sales of alcohol on the ground floor shall be sold ancillary to table meals, such meals being prepared on the premises and consumed at a table.”***

The current premises licence Annex 3 condition reads:

***“All sales of alcohol shall be made ancillary to a table meal service, such meals being prepared on the premises and consumed at a table. The holding areas which shall be restricted to 20 persons at any one time.”***

4.4 There have been 5 valid representations received from three Responsible Authorities and two interested parties.

4.5 The first representation is from the Essex Police Licensing Officer who has concerns that the amendment of the wording of the condition would allow the premises to operate in an entirely different manner without the control measures that other such vertical drinking High Street establishments would be required to conform to. This increases the likelihood for alcohol related crime & disorder and public nuisance. A copy of the full representation is attached at **Appendix 3**.

4.6 The second representation is from the Environmental Health Officer, who states that the applicant has not taken sufficient measures to control noise break out from the premises with no acoustic reduction measures being proposed. There are nearby residential flats and there is a real potential for public nuisance if these concerns are not satisfactorily addressed. A copy of the full representation is attached at **Appendix 3**.

4.7 The third representation is from the Licensing Authority supporting the potential crime and disorder and public nuisance concerns of both the Police and the Environmental Health Officers. Reference is also drawn to the decision-making process of the Sub-Committee when granting the licence in 2016. A copy of the full representation is attached at **Appendix 3**.

4.8 The fourth representation is from an interested party, Mr Bryan Atkins, the owner and resident of 94A, a first-floor flat abutting the very area that the applicant is seeking to amend his business operation. Mr Atkins fears that the increased

activity and noise nuisance will affect his quality of life.  
A copy of the full representation is attached at **Appendix 4**.

- 4.9 A representation has also been received by Mr David Dadds on behalf of two local interested parties, Ms Kate Gregori and Mr John English, who have concerns that the premises is going to 'morph' into a late night bar that will in turn lead to an undermining of the four licensing objectives. A copy of the full representation is attached at **Appendix 5**.

## **5. Reasons for Recommendation**

- 5.1 These are the options available to the Sub-Committee under the Licensing Act 2003.

## **6. Consultation**

- 6.1 The application has been consulted on in accordance with the requirements of the Licensing Act 2003.
- 6.2 Officers from the Licensing Authority have made checks on the display of public notices and in a local newspaper and are satisfied that these requirements have been met.

## **7. Statement of Licensing Policy**

- 7.1 There are no specific issues arising from this application in relation to the Councils' Statement of Licensing Policy.

## **8. Relevant Sections of the Secretary of State's Guidance**

- 8.1 The licensing objectives relating to public nuisance matters arising from this application are covered in Section 2, paragraphs 22.15 to 2.21 (pages 9 & 10) of the Licensing Act 2003, Section 182 Guidance (April 2018).

## **9. Legal Considerations**

- 9.1 Conditions may be attached to the grant of any licence, the hours or activities may be amended as appropriate, or in some cases the application may be refused. However, any action taken must be appropriate and relevant to promotion of the licensing objectives having considered the full details of the application and representations including testimony from any interested party present at the hearing.
- 9.2 The justification behind any decision to grant or refuse a licence application or the attachment of conditions, or variation of terms applied for must be recorded and given to the applicant and any person that has made representation.
- 9.3 There is a right of appeal to Magistrates Court by any person or party aggrieved by any decision made by the Sub-Committee.

#### **Appendices to this report**

- Appendix 1 - Application Form
- Appendix 2 - Premises Licence, OS street maps & images
- Appendix 3 - Representations from Responsible Authorities;  
Essex Police Licensing (Jones)
- Representation from Environmental Health (Blake)
- Representation from Licensing Authority (Leonard)
- Appendix 4 - Representation from Interested Party (Mr. Bryan Atkins)
- Appendix 5 - Representation from David Dadds  
(on behalf of Ms Kate Gregori & Mr John English)

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