



## Minutes

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### Licensing Sub-Committee Tuesday, 15th October, 2019

#### Attendance

Cllr Haigh  
Cllr Jakobsson

Cllr Keeble

#### Officers Present

Paul Adams - Principal Licensing Officer  
Dave Leonard - Licensing Officer  
Jean Sharp - Governance and Member Support Officer

#### Also present

Mark Llewellyn – Cornerstone Legal – Legal adviser to the Sub-Committee

#### 245. Appointment of Chair

Members **RESOLVED** that Cllr Keeble should chair the meeting.

#### 246. 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.

#### 247. Application for new premises Licence - The Vine, 104 High Street.

1. Cllrs Keeble (Chair), Haigh and Jakobsson considered an application for a new premises licence for The Vine, 104 High Street, Brentwood, CM14 4AP by Mr Andreas Artemi. The application was received on 19 August 2019. The application was accompanied by an operating schedule and proposed Mr Artemi as the Designated Premises Supervisor.
2. Relevant representations were submitted by the Licensing Authority (acting as a responsible authority) and by Essex Police. There were discussions between the responsible authorities and the Applicant both

before and after the application was submitted. Those resulted in 38 conditions which, for the most part, had been agreed by all parties.

3. At the hearing Members heard from:
  - (a) Paul Adams, Joint Licensing Manager, Brentwood Borough Council;
  - (b) Matt Bell, licensing consultant on behalf of the Applicant;
  - (c) Dave Leonard, Licensing Officer, Brentwood Borough Council;
  - (d) Gordon Ashford, Licensing Manager, Essex Police.
4. Members were grateful to all the parties for their submissions which they considered carefully.
5. The background to this application was that the premises, The Vine, were previously licensed under a premises licence. That licence was revoked on 30 January 2019 following a number of serious incidents between 2017 and 2018, the last of which involved the tragic death of a customer following an altercation with a member of doorstaff employed by the Applicant. Mr Artemi had been the premises licence holder. Although his son, George, was the Designated Premises Supervisor, Mr Artemi was involved in the management of the premises, alongside his other venues in Southend.
6. The Applicant explained in some detail the new policies that had been developed while the premises had been closed. Members were also taken through each of the proposed conditions. They were impressed by the presentation of the Applicant and were satisfied that the conditions would, in principle, ensure the promotion of the licensing objectives. The Applicant submitted that Mr Artemi would dedicate himself to this premises, if granted a licence, and would delegate management of his other premises in Southend. His plan was to manage the premises for about 3 months by which time he hoped to recruit an experienced, robust manager for the premises. Members were told that without a licence, it was very difficult to recruit someone of the right standard.
7. Mr Leonard, on behalf of the Licensing Authority, explained that he was not objecting as such to the application but that he wanted it to be determined by the Licensing Sub-Committee. He said that he thought the Applicant's case was persuasive but that ultimately the application turns on whether the Applicant can be trusted to adhere to the proposed conditions and policies.
8. Mr Ashford, on behalf of Essex Police, stated that the Applicant was essentially trying to reinstate the licence which had been revoked in January. He said that the capacity of the premises should be limited to 150 people (including staff). He also pointed out that proposed Condition

21 should be clarified to make it clear that the contractor should be accredited by the SIA for door supervision.

9. The options available to the Sub-committee were set out in section 18(4) of the Licensing Act 2003. Whatever steps they took must be appropriate for the promotion of the licensing objectives. Those steps were:

- (a) to grant the licence subject to conditions;
- (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
- (c) to refuse to specify a person in the licence as the premises supervisor;
- (d) to reject the application.

10. Members had carefully borne in mind the importance of making a proportionate decision – one which took into account the commercial interests of the Applicant but not at the expense of the licensing objectives, which were paramount.

11. They were satisfied that the policies and conditions, if adhered to, would promote the licensing objectives. They could see no basis for criticising them and nor did the responsible authorities have any substantial objections to them. For that reason, **they decided to grant the licence subject to the conditions set out in Mr Adams' report (pages 8-14 of the Agenda) subject to some amendments as set out below:**

(a) Condition 1 shall provide:

*“The maximum capacity of the premises shall not exceed 180 people (patrons and staff combined).”*

Members did not accept the suggestion of Essex Police that capacity should be reduced to 150 because this was not supported by evidence from the Fire Service;

(b) Condition 21 shall provide:

*“The premises shall not directly employ door supervisors, rather any door supervisors deployed at the premises must be employed via a third party contractor who is a member of the SIA Approved Contractor Scheme (and approved for door supervision) and where the door supervisors are not self-employed operatives.”*

12. However, Members continued to have concerns about the ability of Mr Artemi in particular to abide by those conditions and policies. They noted that he was implicated in the management failures which led to revocation in January. As the licence holder, he ultimately carried the can for management failures. They acknowledged the Applicant's submission that

he had had an opportunity of reflection since then. However, they agreed with the Licensing Authority and with the Police that this application ultimately depended on trust. Regrettably, in light of the previous very serious management failures, Members did not feel able to trust Mr Artemi at present.

13. For this reason, they decided to **refuse to specify Mr Artemi as the Designated Premises Supervisor**, under section 18(4)(c) of the Licensing Act 2003. By granting the licence, they hoped that this would give the Applicant the commercial certainty the business needed to quickly recruit someone who was suitable for this very important role.

All present were reminded that an appeal against the decision could be made at the Magistrates' Court within 21 days.

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