

2 October 2020

Licensing and Appeals Committee

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

**BLOC 40, FIRST FLOOR, 40 HIGH ST, BRENTWOOD CM14 4AJ**

**Report of:** Dave Leonard – Licensing Officer

**Wards Affected:** Brentwood South / Brentwood North

**This report is:** Public

**1. Executive Summary**

- 1.1 An application has been received for a new premises licence for the provision of indoor sporting events, recorded music and the supply of alcohol in respect of **Bloc 40, First Floor 40 High Street, Brentwood CM14 4AJ**. There have been two representations received from the Responsible Authorities and one relevant representation received from Other Persons. 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 11 July 2020 from AA Trading Ltd in respect of ***Bloc 40, First Floor 40 High Street, Brentwood CM14 4AJ***. The nominated DPS is Daniel Capitanchik. A copy of the application, including an operating schedule of proposed conditions is attached at ***Appendix 1***.

4.2 This premise is already a licensed late-night entertainment venue with the licence holder being AA Trading Ltd. and the DPS being Daniel Capitanchik. It is currently licenced for the following activities to the hours shown;

Indoor Sporting Events, Recorded Music and the Supply of Alcohol:  
Monday-Sunday 1100hrs-0200hrs with opening hours from 1100hrs-0230hrs

A set of OS Street Maps and images together with the existing premises licence currently issued to the premises to better identify the location are attached at **Appendix 2**

- 4.3 This application for a new premises licence is, effectively, seeking to extend the terminal hour of the same activities by one additional hour to the hours shown;

**Indoor Sporting Events, Recorded Music and the Supply of Alcohol:  
Monday-Sunday 1100hrs-0300hrs**

**Opening Hours:  
Monday-Sunday 1100hrs-0330hrs**

- 4.4 There have been two valid representations received from Responsible Authorities which are both attached at **Appendix 3**.
- 4.5 Brentwood Borough Council Environmental Health Manager, Mr David Carter, has concerns relating to the potential for noise nuisance being caused to nearby neighbours based on previous complaints received from residents at both the front and to the rear of the premises. He points out that the hours of operation at the premises had previously been reduced from 0300hrs following concerns raised by the Pollution Team. Mr Carter also makes reference to the impact of noise breakout from the rear smoking terrace area. He responds to the suggested proposals nos. 21-31 in the Operating Schedule (Section O of the application form) and draws attention to proposal 29. *The number of persons accommodated on the terrace (excluding staff) shall not exceed (insert number)*. These proposals were always intended by the applicant to be agreed through negotiation with the Pollution Team. Mr Carter's representation is attached at **Appendix 3**
- 4.6 Brentwood Borough Council Principal Environmental Health Officer, Ms Elaine Higgins, makes representation against the application under the licensing objective of public safety. Ms Higgins' concerns are all in relation to the use of the rear first-floor roof terrace and the integrity of the safety measures currently in place. No information has been supplied with the application to justify additional loading in an area which is effectively the fire escape. She maintains

that there is a lack of information supplied on the terrace area, the structural capacity, the maximum loading and the need to take into account the weight of any fixtures and fittings, furniture and persons in this area. Once again, there has been ongoing consultation between the applicant and the local authority in an effort to address and resolve these issues and it has been the reason for the applicant seeking to adjourn dates previously set for this hearing. Ms Higgins' representation and consultation enquiry are attached at **Appendix 3**

- 4.7 One further valid representation against the application has been received. Mrs Greta Millwood, a local resident from nearby Alfred Road, claims that her neighbourhood has been blighted with an intolerable and entirely avoidable level of night-time noise nuisance caused from a combination of amplified music disorderly behaviour of customers and the disposal of refuse from the premises. Mrs Millwood's representation, together with supporting diary sheets kept in consultation with the Pollution Team, have been attached at **Appendix 4**.
- 4.8 Any matters recorded in the Operating Schedule (Section O of the application form - see **Appendix 1**) will become conditions on the licence if this application is granted, the following conditions will be attached unless modified by this Committee:
1. The premises shall install and maintain a comprehensive CCTV system covering the internal and external of the premises which is of evidential quality. It will also cover all entry and exit points enabling full frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open to the public and during all times when customers remain on the premises. All recordings will be kept in an unedited format for a period of not less than 31 days with correct time and date stamping. Recording shall be made available immediately upon lawful request of Essex Police or other Responsible Authorities. Download or export of CCTV should be in the native file format with the native player.
  2. A staff member from the premises who is conversant with the operation of the CCTV system shall be available at all times when the premises are open to the public. This staff member must be able to show Essex Police or other Responsible Authority recent data or footage with the absolute minimum of delay.
  3. A plan of the premises identifying the location & direction of CCTV coverage shall be served on Essex Police & the Licensing Authority each time it is altered.

4. The premises will maintain a bound log book for all incidents, accidents and emergencies which shall include the following information; and will be available to Essex Police or other Responsible Authorities immediately upon lawful request:-
  - All crimes reported to the venue;
  - All ejections of patrons.
  - All refusals of service.
  - Any complaints received.
  - Seizures of drugs or offensive weapons.
  - The full name of any person who has been involved in dealing with any of the above matters.
5. When licensable activities are permitted beyond 00:00, a minimum of 2 SIA registered Door Supervisors shall be deployed from 21:00 and remain on duty until closing time and all customers have left the premises.
6. A bound Door Supervisors register shall be kept. Door Supervisors shall sign to record their start and finish times along with their full name and SIA badge number
7. When SIA registered Door Supervisors are on duty random searching of people and their possessions will be carried out.
8. All staff engaged outside the premises shall wear high visibility jackets or vests.
9. The management will operate the Essex Police 'Procedures for the Management of Illicit Drugs in Licensed Premises'
10. The outside licensed area shall have a screen installed along the wall, a minimum height of 2meters (or height specified by building control) to prevent objects falling off and/or being thrown.
11. Security measures shall be installed to the stairs in the outside licensed area so use of the emergency escape is only in an emergency and to prevent access to the residential area being used by customers.
12. Reasonable and adequate staff training to be carried out and properly documented in relation to:
  - Dealing with incidents and prevention of crime and disorder.
  - Sale of alcohol (to underage, persons over 18 purchasing for underage, drunks, etc.) prior to being allowed to sell alcohol.
13. All training records will be retained for 12 months and made available to Essex Police or other Responsible Authority upon reasonable request.

14. The Premises Licence Holder shall have a Dispersal Policy. A copy of which will be made available to Essex Police & Responsible Authority upon request
15. No persons shall be allowed to leave the Premises whilst in possession of any drinking glass vessel or open glass bottle whether empty or containing any beverage, save for consumption in any designated external area.
16. Customers shall not enter or leave the premises by the stairs into the outside licensed area at any time, except in the event of an emergency
17. No licensable activities shall take place in external areas at any time.
18. The outside terrace area to be covered by CCTV to the satisfaction of Essex Police.
19. The premise is only to serve drinks in polycarbonate, plastic or other safety glass only, save for bottled products of 70cl or above.
20. Clubscan/IDSCAN or similar networked electronic validation system shall be operated at the premises. At those times and days when door supervisors are required to be at the premises as a condition of the licence, persons entering the nightclub would normally be required to provide verifiable ID and have their details recorded on the system;
21. No speakers shall be installed or used in the external areas.
22. A noise limiter shall be fitted and set to the satisfaction of Environmental Health Services. The level of the noise limiter shall be set with the rear fire exit door open and monitored at the nearest residential noise sensitive premises.
23. All windows and doors to be kept closed during regulated entertainment, with the exception for access and egress.
24. The External area shall be monitored by a member of staff with the purpose of controlling noise from customers and ensuring public safety.
25. The external terrace to the rear of the premises will be closed to patrons from 02:30 each morning until close of business.
26. Notices shall be prominently displayed at all exits requesting patrons to leave quietly.
27. Clear & legible notices shall be prominently displayed in, and at the entrance to any outside licensed area requesting customers to use the area quietly.

28. The terrace to be monitored by a staff member at intervals of no more than 30 minutes.

**\*29. The number of persons accommodated on the terrace (excluding staff) shall not exceed (insert number).**

30. No alcohol to be consumed on the terrace after 11pm.

31. Noise at the premises limited after 11pm to a decibel level to be agreed with Environmental Health Department of the Council. A noise limiter shall be fitted and set to the satisfaction of Environmental Health Services. The level of the noise limiter shall be set with the rear fire exit door open and monitored at the nearest residential noise sensitive premises.

32. Sufficient lighting to be maintained on the terrace during licensable hours and for the lighting to be monitored and agreed with the Environmental Health Department of the Council.

33. The premises shall operate a Challenge 25 age verification policy. Any person who appears to be under the age of 25 shall be asked to produce photographic identification to prove they are 18 or over. Failure to produce will result in service being refused. Acceptable forms of photographic identification include:

- Passport,
- Photo card Driving Licence,
- Photographic ID bearing the 'PASS' hologram.

## **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 Brentwood Borough Council's Statement of Licensing Policy makes reference to;

*19.3 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.*

*22.3 Applicants need to be clear that the Licensing Authority will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant representations have been received. Conversely, premises for which it can be demonstrated have effective measures planned to prevent public nuisance, may be suitable for 24-hour opening.*

*22.6 When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:-*

*(a) The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship.*

*(b) The hours of opening, particularly between 23.00 and 07.00.*

*(c) The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises.*

*(d) The design and layout of premises and in particular the presence of noise limiting features.*

*(e) The occupancy capacity of the premises.*

*(f) The availability of public transport.*

*(g) A 'wind down period' between the end of the licensable activities and closure of the premises.*

*(h) A last admission time.*



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

- 8.1 The following Section 182 Guidance relates to determining applications and disclosure of personal details of persons making representations;

There are no specific references.

## **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 - Current Premises Licence, OS Street Maps & Images
- Appendix 3 - Representations from the Responsible Authorities  
Brentwood Borough Council  
Mr David Carter - Environmental Health Manager  
Ms Elaine Higgins - Principal Environmental Health Officer
- Appendix 4 - Representation from Other Persons  
Mrs Greta Millwood

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