

MEMO

From Elaine Higgins

To: Licensing
Our ref 21/001084/LICON
Your ref
cc
Date 15th June 2021

Location	First Floor, 40 High Street, Brentwood, Essex
Details	<p>Dear Colleagues,</p> <p>Please find attached an application for review and associated certificate received from Essex Police on 3 June 2021 at 16:02hrs in relation to</p> <p>BLOC 40, FIRST FLOOR, 40 HIGH STREET, BRENTWOOD CM14 4AJ</p> <p>If you wish to make representation in relation to this application for review, please do so by email to licensing@brentwood.gov.uk by the close of business on the 17 June 2021.</p>

Further to the application for review, I confirm that as Environmental Health (Health and Food Safety) I have a number of concerns. I am therefore making a representation as a responsible authority in accordance with the Licensing Act 2003. This representation is under the licensing objective of Public Safety.

The premises are subject to an application for a new premises licence, dated 11 June 2020, to which I made representation and the following matters have not been resolved.

Public Safety

1. I have concerns that persons' are not prevented from falling from the edge of the outside area and that objects such as drinking vessels could fall or be thrown from height.

Annex 2, part 10 of the existing premises licence conditions requires that a screen be installed along the wall, a minimum height of 2m (or a height specified by building control) to prevent objects falling off and/or being thrown.

2. Details were requested of the type and layout of external furniture. The concerns are that furniture could be located adjacent to the edge of the outside area where persons could stand to fall or for objects to fall or be thrown from height. The locations of furniture will also highlight safe access from the terrace in an emergency and assist in demonstrating the safe capacity of persons to be reasonably accommodated in this area.

3. Are there any design and structural calculations of a safe load for the outside area? Are there any fragile surfaces, such as skylights that have been covered that could permit a fall from height from the outside area? The outside area is not a smooth consistent surface and it would appear that there are some raised areas which may be covered skylights. A safe capacity for persons in this outside area is requested.

COVID-19

During the Coronavirus restrictions, I received a request to attend the premises in company with Dave Leonard, Licensing Officer to consider if there were breaches of Coronavirus legislation. In particular I was considering whether there was adequate spacing between tables and chairs to permit social distancing of 2m between tables. I attended site on 23 September, where Mr Dadds and Mr Melin did not attend, so did not gain access and again at 13:16 on 24 September 2020.

When I attempted to take photographs of the seating layout at the time I was approached by Mr David Dadds, representing Mr Melin, who prevented me from taking photographs. Instead he insisted on taking the photographs and agreed to send these to me by email.

I made a number of observations and followed this up by email on 25 September. The content of my email was:

Hello Mr Dadds

Thank you for meeting with me yesterday.

As per our discussions please now forward me the photographs that you took of the seating at my request, after you had prevented us from taking photographs in the venue. I note that some of the seating that is now not to be used has been marked with tape to effect social distancing. I also requested a plan of the premises with the seating laid out to demonstrate the location of this. Mr Mellin explained that the area by the DJ booth and the larger horseshoe seating against the entrance wall will be split into two smaller groupings by barriers or screens, which must be in place or the social distancing managed temporarily in a different way to ensure compliance with the regulations when the premises is open to customers next.

I would appreciate an agreed timescale for this work to be completed, along with the screening discussed between the back to back booths. In the meantime these seats are to be used as discussed, and marked with hazard tape. 2m distance is to be maintained between persons seated, in different groups.

Can you also forward the amended risk assessment, taking into account the changes in legislation since the risk assessment that was previously sent, and the comments made by my manager Paul Adams in his letter from Friday last week and the additional matters identified on my visit which were:

- Toilet use should be controlled to reduce mingling.
- Hand towels should be removed and replaced with disposable hand drying materials
- I would advise that the middle ladies toilet be locked to prevent use and encourage social distancing
- The men's urinal to be taken out of use
- The men's toilet door to be propped open to reduce hand contact
- Increased cleaning regime for hand contact surfaces such as the toilet door plates and handles
- Supply of sanitiser to toilet entrance/exits.

Could you also please identify what is the seated capacity of the venue is with compliance with the Coronavirus regulations, and what the capacity for the smoking area will be in relation Coronavirus controls.

Please forward the photographs and plan by midday Monday, and the written risk assessment as soon as completed, but by Friday next week at the latest.

The contents of this email will be shared with Essex County Council Public Health Director.

Kind regards

Elaine

No response was received to my email and I did not receive the requested photographs, amended risk assessments or seating plan. I sent a follow up email on 6 October again requesting a response. No response was received to either of these requests.

CCTV

I have viewed some of the CCTV footage of the roof terrace, entrance and foyer of the incident that led to this application for review.

The CCTV confirms my concerns for the outside area in that although there are metal barriers alongside the walls, these are not substantial. Images show that the barriers are below shoulder height and not at a height of 2m as licence condition to Annex 2, part 10 requires. The barriers are metal crowd barriers that are not fixed or joined together. During the footage persons are seen pushing, or being pushed against the barriers which give freely and do not provide a substantial protection against the edge of the roof-top.

Furthermore, the current Coronavirus Regulations require that persons are seated at a table and supplied with table service. There are no tables or chairs in the outside area. Persons may use this area to smoke; however the CCTV footage clearly shows that not all of those present in this area were smoking. Therefore, the area should not have been used in this way as non-smokers should be seated at a table.

The CCTV also shows a member of public grab a mop from a bucket that has been left in this area. This was taken from the bucket and down the back stairs, this could have been used as a weapon. For the purposes of public safety, a mop and bucket should not have been in this area.

The CCTV from the front outside entrance highlights three of the metal barriers, which when pushed against, fall easily. This is concerning that when used on the roof, outside area, the barriers would not prevent a fall from height.

The CCTV of the upstairs foyer area highlights that very few members of public, and only one member of staff were wearing face masks. These are required under Coronavirus legislation, unless exempt, when entering and leaving premises and should only be removed when seated at a table.

I also noted a member of public in the upstairs foyer area holding a glass bottle upside down. Licence condition Annex 2, part 26 requires that the premises is only to serve drinks in polycarbonate, plastic or other safety glass.

Therefore, the CCTV shows breaches of both Licence conditions and Coronavirus legislation.

Elaine Higgins
Principal Environmental Health Officer