

16 May 2017		ITEM: 4
Licensing Sub-Committee		
Determination of an Application for a Review of a Premises Licence		
Wards and communities affected: Corringham and Fobbing	Key Decision: Non-key	
Report of: Laura Manning, Licensing Officer		
Accountable Head of Service: Andrew Millard, Head of Planning and Growth		
Accountable Director: Steve Cox, Corporate Director of Environment and Place		
This report is Public		

Executive Summary

An application has been received for a review of the premises licence at Artemis, 11 Lampits Hill, Corringham, Essex, SS17 9AA. The review relates to prevention of crime and disorder arising from employing a person who is disqualified from that work by reason of their immigration status in the UK.

1. Recommendation(s)

1.1 That the Sub-Committee considers this report and appendices together with any oral submissions at the hearing and determines the application for the review of the premises licence in line with the options open to the Sub-Committee under the Licensing Act 2003.

2. Introduction and Background

2.1 On 17 March 2017, an application for a Review of the premises licence for Artemis, 11 Lampits Hill, Corringham, Essex SS17 9AA, was received from County Licensing Officer, Stephen Sparrow, of Essex Police, County Licensing Hub, Witham Police Station, Newland Street, Witham, Essex, CM8 2AS. A copy of the full application and associated documentation is attached as **Appendix A**.

2.2 The application for Review relates to the following licensing objectives-

Prevention of Crime and Disorder

In summary the application provides:

- Following intelligence held by the Home Office Immigration Service, a Magistrates Court Warrant was obtained on 20th January 2017 and this premise was visited on 24th January 2017 at 15:37hrs by Immigration Officers.
- Upon arrival of Immigration Officers they encountered 5 males in the premises including a male Turkish national, following questioning he was arrested as an illegal worker and escorted off the premises.
- A second male was questioned who was also a Turkish national, and it was established that he had entered the country illegally and had no right to work. This male has an outstanding application so was not arrested but ordered to remove himself from the shop.

2.3 The premises licence is held by Mr Kadir Atik and Mr Ibrahim Akyel, a copy is attached as **Appendix B**.

2.4 There have been no further representations in relation to this application for review, following the public consultation.

2.5 Under the Licensing Act 2003 the licensing objectives are –

- a. The prevention of crime and disorder;
- b. Public safety;
- c. The prevention of public nuisance; and
- d. The protection of children from harm.

2.6 Any representation must relate to a particular premise and must be relevant to the promotion of one or more of the four licensing objectives.

3. Issues, Options and Analysis of Options

3.1 The Committee, after considering the review application and all of the relevant representations, will need to consider what action, if any, to take in order to ensure that the Licensing Objectives are complied with.

3.2 The following options are available to the Licensing Sub-Committee:

- Do nothing with the licence;
- To modify the conditions of the premises licence. This can include adding new conditions or alterations to existing conditions e.g. reducing the hours of operation;
- To suspend the licence for a period not exceeding three months;
- To revoke the licence.

- 3.3 The decision made by the committee will not take effect until the end of the period given for appealing against the decision or, if the decision is appealed against, until the appeal is disposed of.
- 3.4 In determining this application for review of the premises licence, the Sub-Committee should have regard to the Council's Statement of Licensing Policy and to the guidance issued by the Secretary of State under s182 of the Licensing Act 2003.
- 3.5 Paragraph 11.27 of the statutory guidance issued under section 182 of the Licensing Act 2003 ,gives examples of certain criminal activity that may arise in connection with licensed premises which should be treated seriously, which includes employing a person who is disqualified from that work by reason of their immigration status in the UK.
- 3.6 Paragraph 11.28 of the statutory guidance issued under section 182 of the Licensing Act 2003, provides that where reviews arise from serious crime, as above, and the Licensing Authority determines that the crime prevention objective is being undermined, it is expected that revocation of the licence, even on the first occasion, should be seriously considered.
- 3.7 The Sub-Committee are advised that the hearing is a statutory exercise of power delegated by local residents to consider what the public interest requires. The licensing authority, via the Sub-Committee, has a duty, in accordance with the rule of law, to behave fairly in the decision-making procedure. Representations from all parties both written and verbal will form part of matters that are to be considered. Findings on issues of fact should be on the balance of probability.
- 3.8 The Sub-Committee are advised that the final decision should be based on the individual merits of the application and findings of fact made at the hearing.
- 3.9 The application must be determined within 5 working days of the conclusion of the hearing, in accordance with paragraph 26 of the Licensing Act 2003 (Hearings) Regulations 2005.

4. Reasons for Recommendation

- 4.1 These are the options available to the Sub-Committee

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 The application has been consulted on in accordance with the requirements in the Licensing Act 2003.

6. Impact on corporate policies, priorities, performance and community impact

6.1 The Council has a duty under Section 17 of the Crime & Disorder Act 1998 to do all that it reasonably can to prevent:

- (a) crime and disorder in its area (including anti-social behaviour and other behaviour adversely affecting the local environment), and;
- (b) the misuse of drugs, alcohol and other substances in its areas.

In considering this duty the Sub-Committee should have due regard to the submissions made by the applicant and interested parties, the Licensing Act 2003, the Guidance issued by the Secretary of State under Section 182 of the Act and the Council's own Statement of Licensing Policy.

7. Implications

7.1 Financial

Implications verified by: **Laura Last**
Management Accounts

There are no financial implications associated with the report

7.2 Legal

Implications verified by: **Adam Rulewski**
Litigation and Prosecutions Barrister

Thurrock Council as Licensing Authority under the Licensing Act 2003 and subordinate legislation is empowered to determine applications of this nature. Notice must be given of the Licensing Authority's decision on this matter. The decision could be subject to an appeal to a Magistrates Court, which can be instigated by either the applicant or the person who made the representation.

7.3 Diversity and Equality

Implications verified by: **Natalie Warren**
Community Development Officer

The Licensing Sub-Committee is of a quasi-judicial nature and whilst the Licensing Committee should ensure equality of treatment for all groups in the granting of licences, due regard should be given to its responsibility to promote the licensing objectives and its duties under Section 17 of the Crime and Disorder Act 1998. This includes full consideration of the need to prevent crime and disorder, ensure public safety, the prevention of public nuisance

and the protection of children from harm. Where it finds that the need to comply with those duties is reasonably inferred, it must determine the application appropriate.

7.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

The implications of Section 17 Crime and Disorder Act 1998 have been considered at 6.1 above.

8. Background papers used in preparing the report:

- The Licensing Act 2003
- Guidance issued under Section 182 Licensing Act 2003
- Thurrock Council's Statement of Licensing Policy

9. Appendices to the report:

- Appendix A , Copy of review application
- Appendix B, Copy of the current premises licence

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