

## LICENSING SUB-COMMITTEE HEARING

### Members' Record of Determination



### Memlings Restaurant Limited Review of Premises Licence 25 April 2016

<b>Constitution of the Sub-Committee:</b>	Councillors R Gifford and Wallis	
<b>Chair</b>	Councillor Morris	
<b>Others Present:</b>	Natalie Keen Kieran Evans David Parrish Stephen Rycraft Natasha Bentley Terry Jenkins Matthew Gilbert	
<b>Legal Advisor:</b>	Lee Gardner	
<b>Committee Manager:</b>	Jane Crighton	
<b>Licensing Officer:</b>	David Nolan	Licensing Officer
<b>Applicant:</b>	Mr Ed Fisher	Licensing Officer
<b>Relevant Authority Officers:</b>	Gemma McCormack	Thames Valley Police Licensing Officer
<b>Interested Parties/Objectors:</b>	Mr Lama – Director of Memlings Restaurant Ltd	
<b>Members of the Public:</b>	Mr J.Gatheca (DJ Memlings) Simon Teesdale Gillian Clark	
<b>Documentation:</b>	Report of Licensing Officer	
<b>Apologies:</b>	None	
<b>Disclosures of Interest:</b>	None	

Prior to the commencement of the hearing the Chair read an opening statement, which constituted the strict procedure to be followed at the hearing, the process for all parties giving evidence and the rights of persons attending the hearing.

At the close of the hearing the Chair informed all parties of their rights of appeal to the decision which had been made by the Sub-Committee.

<b>Signature:</b> 	
<b>Chairman:</b>	Councillor
<b>Date of Hearing:</b> 25/4/16	

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25 April 2016

**1. Summary of Hearing**

On the 25<sup>th</sup> April 2016, the Licensing Sub-Committee of Milton Keynes Council heard an application to review the Premises Licence held in respect of the Memlings Restaurant in the Agora, Wolverton ('the Premises').

All aspects of the Sub-Committee decision are made in accordance with, and with due reference to, the Licensing Act 2003 (the Act), the amended Guidance issued under Section 182 of the Act (March 2015) (the Guidance) and Milton Keynes Council's current Statement of Licensing Policy (the Policy).

The Review Application was submitted by the Licensing Authority, represented by Mr Ed Fisher and supported by Thames Valley Police, represented by Mrs Gemma McCormack. Further representations in writing were received from Mr & Mrs Pym of Buckingham Street, Wolverton.

Present at the Sub-Committee on behalf of Memlings Restaurant Ltd (Premises Licence Holder), were Mr Lama (Company Director) and a gentlemen who identified himself as the DJ.

Also present were Mr David Novell, the Licensing Officer presenting the report to the Sub-Committee and various Officers of the Council to give direct evidence of their experiences with the premises having inspected or attended the premises while trading. Witnesses were in attendance for the applicant (Mr Fisher)

A review was submitted on 2 licensing grounds, those being the prevention of crime and disorder and the prevention of public nuisance.

The Evidence to the Committee by Mr Fisher extended on his reasoning contained in the review application. He detailed that concerns regarding evidence of repeated warnings and a history of non-compliance of the Premises Licence and complaints from local residents relating to noise nuisance.

The Sub-Committee heard evidence relating to the serving of alcohol after permitted hours, the failure to have a CCTV system that recorded images for 28 days and the failure to provide CCTV footage when instructed to do so by the Police and licensing officers. The Police detailed that they had requested the CCTV footage 3 times and still not received copies of it.

Also the Sub-Committee heard evidence that there were insufficient registered door supervisors on duty as per required under the conditions of the Premises Licence. A fact admitted by Mr Lama who confirmed that if the bar was quiet he would send one of them home. Evidence was also submitted on behalf of the review by the Police who confirmed their concerns regarding the CCTV and the fact that Officers had on occasions had problems in gaining access to the Premises during licenced hours.

Milton Keynes Council

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The Sub-Committee also heard evidence in relation to noise complaints. It noted that in a 3 year period Memlings had received 26 complaints and been served a Noise Abatement Notice and a licensed premises in the same road has received 3 complaints in the same period.

Licensing Officers also provided evidence of promotional flyers that clearly indicated the premises would be open past licensed hours. The DJ said that this was due to a printing error but then admitted that it was still put on the premises Facebook page and displayed in the premises. Mr Lama confirmed that the premises traded beyond its hours on the days in question.

The Sub-Committee also were informed that the Premises had had 2 Premises Licences. They were informed this was legal to have and that one licence was not surrendered until January 2016. It also was shown evidence that Memlings Restaurant Ltd was not trading for a period up to November 2015.

As such either Mr Lama was operating under a licence for a company he has signed a declaration saying was not trading or he was operating in breach of the first licence which was not in the name of Memlings Ltd.

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**2. Full text of unanimous decision on the application**

In considering all the evidence, the Guidance and the Policy, the Sub-Committee **RESOLVED: That the Premise Licence for Memlings Restaurant Ltd be revoked.**

The Sub-Committee further requested Officers to see if any action can be taken against the Designated Premises Supervisor who was not present at the meeting.

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**3. Reasons for decision**

The Sub-Committee considered the submissions from those present and noted that Mr Lama had accepted the breaches of the licence had occurred. Mr Lama addressed a number of the breaches and how he intended to make sure they did not occur again, however not all of the issues were addressed and Mr Lama had received warnings before and had not addressed these issues.

The Sub-Committee therefore had no confidence that Mr Lama would operate in a manner that would guarantee compliance with any new conditions placed on the licence. When Mr Lama applied for a new licence under the name of Memlings Restaurant Ltd, a number of conditions were imposed and these had been breached.

The Sub-Committee concluded that Mr Lama as company director of Memlings Restaurant Ltd, was not a responsible person to continue to hold a premises licence due to the repeated and continued breaches even after warnings had been given.

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#### **4. Right of Appeal**

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An appeal against the decision of the Sub-Committee may be made by the following parties:

- Memlings Restaurant Limited
- Thames Valley Police
- Milton Keynes Council (as the Licencing Authority bringing the review)
- Mr & Mrs Pym

Applications to appeal the decision of the Sub-Committee must be made to the local Magistrates' Court within 21 days from the receipt of this notice.

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