



LICENSING SUB-COMMITTEE HEARING

Members' Record of Determination

Memlings Metro Limited, The Agora, Wolverton New Premises Licence 9 May 2017

Constitution of the Sub-Committee:	Councillors Geaney and C Williams	
Chair	Councillor Morris	
Others Present:		
Legal Advisor:	Lee Gardner	
Committee Manager:	Jane Crighton	
Licensing Officers:	Simon Teesdale	Licensing Team Leader
	James Sloan	Licensing Officer
Applicant/Licence Holder /Licence Holder's Representative Unrepresented.	Marcel Movioka	Applicant
Also Present:	Ed Fisher	Senior Practitioner
	Natasha Brown	Senior Environmental Health Officer
	Gemma McCormack	Thames Valley Police
	Adrian Moss	Wolverton and Greenleys Town Council
	Chloe Hewitt	Student Journalist
	Russell Houchin	Kents Hill and Monkston Parish Council
Documentation:	Report of Licensing Officer and documentation	
Disclosures of interest:	None	
<p>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.</p>		

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**Memlings Metro Limited, The Agora, Wolverton
9 May 2017**

The Sub-Committee considered a New Premises Licence for Memlings Metro Limited, The Agora, Wolverton (the Premises). The application was for the following

(a) Supply of Alcohol (on sales)

Sunday to Thursday 10:00 to 00:00

Friday to Saturday 10:00 to 01:40

Sunday before a Bank Holiday Monday to 01:40; Christmas Eve and New Year's Eve to 02:45.

(b) Recorded Music (Indoors)

Sunday to Thursday 10:00 to 00:00

Friday to Saturday 10:00 to 01:45

Sunday before a Bank Holiday Monday to 01:45; Christmas Eve and New Year's Eve to 03:00

(c) Late Night Refreshment (Indoors)

Sunday to Thursday 23:00 to 00:00

Friday to Saturday 23:00 to 01:45

Sunday before a Bank Holiday Monday to 01:45; Christmas Eve and New Year's Eve to 03:00.

(d) Opening Hours of the Premises

Sunday to Thursday 10:00 to 00:00

Friday to Saturday 10:00 to 01:45

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Sunday before a Bank Holiday Monday 01:45; Christmas Eve and New Year's Eve to 03:00.

Evidence

The Sub-Committee noted that representations had been received from Trading Standards, Environmental Health, Thames Valley Police, the Licensing Authority, Wolverton and Greenleys Town Council and a local resident.

During the hearing and questioning of the parties the Sub-Committee heard the following facts.

1. The premises had had a previous licence, held in the name of Memlings Restaurant Limited, but this had been revoked in April 2016 following a series of breach of conditions and operating / licensable objectives throughout its period of operation in 2015/16. The decision was subsequently appealed but then withdrawn in November 2016 in conjunction with the licence lapsing due to the company being dissolved following a compulsory strike off of the company by Companies House.
2. That following the revocation, the premises had been operating under Temporary Event Notices at weekends. However, an application for a further Temporary Event Notice (TENS) at the premises for Friday 27 to Sunday 29 January 2017. This was refused and a Counter Notice issued for the reasons below:
 - “1. The Premises License had been revoked in 2016 for reasons which included the sale of alcohol out of hours (i.e. without a license in place) and that the Licensee had failed to provide CCTV recordings when requested. It was clear that these practices were still being allowed by the premises user,
 2. That the premises user had failed to confirm that an authorisation was in place before opening and failed to read emails sent to her by the licensing authority, therefore;
 3. This gave the Sub-Committee reason to believe that there was a significant risk that the licensing objectives, to Prevent Crime and Disorder and Maintain Public Safety would not be met by virtue of previous conduct and poor management competency.”
3. The applicant for the TENS was the same Personal Licence Holder that was responsible for the Premises controlled by Memlings Restaurants Ltd and the same name as the proposed Designated Supervisor as contained on the current application.
4. Memlings Metro Limited had formed in January 2017 under the directorship of Marcel Mavioka. The premises had been operating as a restaurant under

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Temporary Event Notices and had not provided licensable activities. The Sub-Committee noted that no complaints had been received against the Temporary Event Notices.

5. The applicant had provided an operating schedule to address some of the potential problems that may be associated to a late night music venue. The Sub-Committee noted that officers were not confident that the proposed operating schedule would suffice to enable the applicant to adequately promote the licensing objectives.
6. That the application had stated the previous licence holder, Ms Sasa Lama, as the Designated Premises Supervisor. Thames Valley Police had objected to the inclusion of Sasa Lama to the present application. The Sub-Committee noted that, following the representation, Sasa Lama had been withdrawn from the application and that the applicant had appointed Josephine Augustine the new Designated Premises Supervisor. The Designated Premises Supervisor would only be on site from 8.00 pm to 10.00 pm.
7. The representations made by the responsible authorities were an effort to ensure far tighter and well defined conditions were attached to the licence, if granted, to ensure better promotion of the licensing objectives. All responsible authorities indicated concerns on whether the applicant would comply with the licensing conditions.
8. That the applicant stated that he would employ three doormen on Monday to Thursday, 10.00 pm to midnight, and Friday, Saturday and Sunday, 11.00 pm to 01:45 am who would ensure that appropriate measures were in place when patrons left the premises and that smoking was forbidden on the top of the stairs and direct them to the designated smoking area onto Church Street.
9. That the applicant was not the signatory on the lease, therefore, the premises was still leased by Gaby Lama, the previous licence holder(s), and still had a large part to play in the running of the premises and that of the application process. The applicant confirmed that he also employed Josephine Augustine as a chef. When asked who would be available in the event that a licensing officer was to visit the premises late at night, the applicant stated that the chef and Peter Lama, who is the son of Mr Gaby Lama would be present and managing the premises.
10. Officers also produced a copy of a flyer that said, if any problems call this number, which was traced to be the number of Mr Gaby Lama.
11. Mr Mavioka informed the Sub-Committee that he was a bus driver in Milton Keynes and would not be at the premises. He would rely on his DPS, but licensing officers confirmed that the DPS was also the DPS of a local convenience store that held a licence until 10pm where she worked.

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Mr Mavioka said that the DPS would attend the premises between 8-10 pm and would not stay until close.

12. Later during question Mr Mavioka said that the manager would be Mr Lama's son Peter who was a director of the company that had its licence revoked.

Reasoning

On considering the evidence the sub-committee found no evidence to show that the applicant could competently and confidently fulfil the licensing objectives and comply with all the conditions that the Sub-Committee would consider placing on the licence if it was minded to grant.

The Sub-Committee noted that this was a new company and a new application by Mr Mavioka, however all evidence presented to the Sub-Committee indicated that the previous license holders were either the controlling minds behind the application or would still have significant input into the running of the business. Those persons had had their licence revoked and had shown that they were unable to comply with the licensing objectives.

This was further backed up by the evidence provided by Mr Mavioka, who gave inconstant evidence to the Sub-Committee, contradicting himself in various statements made thought the hearing.

The Sub-Committee in coming to this conclusion question discovered that Mr Lama had been attending all meetings with licensing officers concerning this application. In question Mr Mavioka said that the lease of the premises had been transferred to the new company, then later stated that it was still in the name of Mr Lama, indicating that Mr Lama still had a controlling influence on the premises.

Mr Mavioka had said that he and Mr Lama were close friends and Mr Lama was an advisor, assisting him on running the company. Member did not believe this was the case, however if this was true then it gave the Sub-Committee no confidence that Mr Mavioka would comply with licensing conditions being that the person advising him had failed to do so.

The DPS had been changed however that DPS already was managing another premises, the running of the premises would mainly be left to the cook, who would be too busy in the kitchen to deal with any problems and monitor compliance with the licensing conditions, or Peter Lama, a previous director of a company that had its licence revoked.

The Sub-Committee was also concerned that Mr Mavioka indicated that he would employ three door staff, seven days a week. This was different to the details in the application, indicating that he did not know what was contained in the application or understand the cost of employing certified door staff.

The Sub-Committee therefore concluded that Mr Mavioka showed no understanding of the application he made or the business he proposed to run, that there were still

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strong links to Mr Lama and the previous company that had its licence revoked and also to the previous DPS that had a TENS application objected to by Police and upheld by the authority.

The Sub-Committee also had concerns over the management arrangements, using a DPS that was employed elsewhere and would only be on site for limited periods of time, leaving the day to day management to staff that were mainly situated in the back of the premises or had previously had a controlling influence in a company that lost its licence.

Decision

That the application be refused on the grounds that no evidence was presented that the applicant could competently and confidently fulfil the licensing objectives.

Appeal

Any party aggrieved by the decision of the sub-committee has the right to appeal the decision to the Magistrates' Court within 21 days of receipt of this summary of decision under Section 77 of the Local Government (Miscellaneous Provisions Act) 1976.

Should any person choose to appeal this decision they are advised to seek independent legal advice.

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