

premises licence at 195-199 Cottis Lane, Epping, Essex, CM16 4BL for CK Entertainments Ltd.

The application was for the following licensing activities: -

The Provision of Live Music

Thursday to Saturday 23.00 – 03.30, Sunday 23.00 – 00.30
(Non-standard timings New Year's Eve from 11.00 – 03.30 on New Year's Day)
(Sundays before bank holidays 23.00 – 03.00 the following day)

The Provision of Recorded Music

Thursday to Saturday 23.00 – 03.30, Sunday 23.00 – 00.30
(Non-standard timings New Year's Eve from 11.00 – 03.30 on New Year's Day)
(Sundays before bank holidays 23.00 – 03.30 the day following)

The Performance of Dance

Thursday to Saturday 23.00 – 03.30, Sunday 23.00- 00.30
(Non-standard timings New Year's Eve from 11.00 – 03.30 on New Year's Day)
(Sundays before bank holidays 23.00 – 03.30 the day following)

Anything of a similar description to that of above

Thursday to Saturday 23.00 – 03.30, Sunday 23.00 – 00.30
(Non-standard timings New Year's Eve from 11.00 – 03.30 on New Year's Day)
(Sundays before bank holidays 23.00 – 03.30 the day following)

Late Night Refreshment

Monday to Wednesday 23.00 – 00.00, Thursday to Saturday 23.00 – 03.30, Sunday 23.00 – 00.30
(Non-standard timings New Year's Eve from 11.00 – 03.30 on New Year's Day)
(Sundays before bank holidays 23.00 – 03.30 the day following)

The Sale by Retail of Alcohol

Sunday to Wednesday 11.00 – 00.00, Thursday to Saturday 11.00 – 03.00
On the premises only
(Non-standard timings New Year's Eve from 11.00 – 03.30 on New Year's Day)
(Sundays before bank holidays .00 – 03.00 the day following)

Opening Hours of the Premises

Sunday to Wednesday 11.00 – 00.30, Thursday to Saturday 11.00 – 03.30
(Non-standard timings New Year's Eve from 11.00 – 03.30 on New Year's Day)
(Sundays before bank holidays 11.00 – 03.30 the day following)

The Responsible Authorities had all received a copy of the application and it had been advertised at the premises and in a local newspaper.

All residences and businesses within 150 meters radius of the premises were also individually consulted.

The Council had received 12 representations objecting to the application. These

included Essex Police, the Environment and Neighbourhoods Team, Epping Town Council, two of the local District Ward Councillors and 7 local residents which related to the Prevention of Crime and Disorder, Prevention of Public Nuisance, and Public Safety and the Protection of Children from Harm. In addition, there were 12 representations of support which included local businesses and residents.

The Licensing Compliance Officer advised that previously, the premises had been subject to a Summary Review requested by Essex Police on the 4 January 2019, in accordance with Section 53B of the Licensing Act 2003. At that time, the Council decided to take interim steps and suspend the premises licence with immediate effect until a review hearing, as it had been deemed there was a danger of further serious crime and serious disorder. On the 29 January 2019, a Licensing Sub-Committee determined the Summary Review and revoked the premises licence of Club 195.

The Licensing Compliance Officer advised that the Applicant had submitted a late document of updated conditions, which incorporated amendments from Essex Police, Shield Security and Big Sky Acoustics. The Sub-Committee and all other parties present agreed to the submission of this schedule.

(b) Presentation of the Applicant's Case

The Applicant's Barrister, S Le Fevre set out the case for the new premises licence which incorporated five fundamental changes between the previous premises and this new application. The changes included personnel; controls and conditions; design and layout; a period of closure leading to a disassociation with the previous premises; and miscellaneous points.

The Barrister advised that the personnel had extensively changed, following the loss of confidence and revoking of the previous premises licence in January 2019. The owners had employed J Hoffelner as the DPS and he had over ten years of experience in the night time entertainment trade. He had engaged a number of experienced professionals to assist with the potential noise nuisance, security, dispersal and to provide an independent assessment of the Police report supporting the Summary Review. The Barrister advised that the previous Director and DPS, D King had been stretched too thinly between this and his other licensed premises and had therefore resigned to concentrate on his other business. The other Director, S Cummings who had only previously been a shareholder and involved in the administration of the previous premises would again remain removed from the day to day operation of the premises.

The Barrister went on to advise that J Hoffelner had engaged Shield Associates to provide an independent audit of the venue's policies and procedures. This had requested wholesale changes in the operational management of the premises and had been recommended following meetings with the Essex Police Licensing Officer, P Jones and L Elford from TLT for pre-application advice.

Furthermore, Shield Associates had been asked to examine the crime data that had been supplied by Essex Police in relation to the two premises that had been owned and controlled by CK Entertainments LTD. The expert knowledge provided by Shield Associates had been gained through the Metropolitan Police and years of experience in dealing with Licensing Premises and the night time economy in the London boroughs, such as Shoreditch, Hackney and Westminster. The recommendations provided by Shield Associates had been incorporated into the late submitted conditions (Licensing Sub-Committee Supplementary Item 2). This included a dispersal strategy; the use of body cameras; controlled entry after 9 pm; ID scanning;

metal detective arches; bags searches; CCTV; controlled and alarmed entrance and exit points; and a change in layout of the premises, which represented a £500,000 investment. The Barrister confirmed that the dispersal strategy would be supported by four door supervisors, a welfare officer and a marked car, to assist customers of the premises to leave the surrounding area quickly and quietly.

The Barrister advised that the premises had been closed for 7 months which created a period of dissociations with the previous premises and allowed the venue to be re-set. The staff, policies, procedures and music genre had been changed to reflect a new start and new clientele.

Other points to consider, were that the closest residents to the premises had not raised objections; many local businesses were in support of the premises; former customers supported the changes and implementations that had been suggested; and local residents felt that the local nightlife required a night time venue for local people and the benefits it would bring the area.

In addition, Sadlers had advised that the taxi company employed around 120 drivers and although not all of them worked evenings, there would be some who would support the club's requirements at closing time.

(c) Questions for the Applicant

The Sub-Committee asked what was meant by the '20 guests per night who may be admitted without ID at the manager's discretion'; and whether this would cause the same issues as the previous license, if these guests were allowed in without a means of ID. J Hoffelner advised that this condition only applied when a group of people turned up and were all clearly over the required age and one of them did not have any ID. It would not be used to allow the entry of a group where no one had ID. J Hoffelner advised that this condition was common practice in night clubs and the guests details along with the guests that entered with them would be recorded, in case required.

The Sub-Committee commented on the security arrangements and asked how many premises would J Hoffelner manage. J Hoffelner advised that he would solely manage this premises and the security would remain in place for as long as he was manager.

The Sub-Committee asked whether J Hoffelner had been involved in the premises before and whether the previous Directors would hold any control over the day to day running of the premises. The Sub-Committee also mentioned the concern regarding the smoking area provided on the roof terrace. J Hoffelner advised that he had not been involved in the previous premises and it would be his sole responsibility. Regarding the smoking area on the roof terrace/garden, the maximum had been set at 30 people, but it was intended that 20 smokers be allowed into this area and the additional 10 people, were to allow for the transfer of customers into the club as this area crossed over and he did not want to be in breach of the conditions.

The objectors asked whether there was a similar limit on the number of customers allowed in. It was confirmed that it would be similar. Furthermore, the dispersal of guests and lack of public transport concerned the residents because the only means of leaving the area was either by car or private hire which could cause nuisance to residents. J Hoffelner advised that he would be using social media to promote customers attending the venue to pre-book taxis or to consider how they were going to get home and that if customers pre-booked there would be more of a staggered dispersal.

Other points of concern were the many alleyways in Epping that surrounded the premises and whether they would be managed; the noise from the garden terrace; and how the premises would attract a different type of clientele. J Hoffelner advised that Sky Acoustics had been employed to ensure that the noise created by the roof garden would be reduced to a minimum and the area would only be available to 20 guests. The dispersal of customers would be directed to the high street rather than the alley ways and ID scanning would be used to eliminate any known trouble makers. The ID system used was part of a national data base that shared information across the country and any known persons that had been banned from other premises would be flagged up. Furthermore, anybody using fake ID would have it removed, and it would be passed onto the appropriate authorities. The premises had also changed the type of music, which would be played to house and dance.

An objector then asked for more information on the glass screens surrounding the proposed smoking area. J Hoffelner advised that depending on planning permission, the glass screen may be retractable, but it would be at least 6 feet high. The Sub-Committee then asked what he would do, if planning permission was refused; had he considered another area? J Hoffelner advised that he had not considered another area, although the smoking area of the previous premises had been on the ground level, so this could be an option.

Lastly, the Police had suggested that the closing time should be reduced to 01:00 am rather than 03:00 am. J Hoffelner advised that this was the only area where they had not agreed with the Police and only the times set out in the suggested conditions would enable the viability of the premises.

(d) *Presentation and Comments from Objector's*

The Barrister for Essex Police, R Hancock advised that all licensing matters were a judgement and that the Sub-Committee had to consider what was appropriate to prevent crime and disorder. He asked whether the Sub-Committee considered the conditions put forward by the applicant, would make the significant changes required.

The new licence would be substantially increasing the opening hours on Thursday, Friday and Saturday evenings to 03:00 am. The Barrister asked the Sub-Committee to consider how this would affect the local residents; the risks associated with the dispersal of 600 customers; the lack of public transport available at this time; the previous issues with door supervisors controlling the risk; whether the measures set out would be consistent and work; and that currently an appeal was outstanding for the previous premises licence.

In conclusion, the Barrister stated that 11 door supervisors had been present and patrolling the previous premises when a serious incident had occurred, therefore would the measures put in place now be sufficient. There had also a reduction in the crime statics between 02:00 and 05:00 am since the premises had closed. Lastly, he advised that the previous premises had not been closed for low level crime but serious offences and there was still that risk.

The Environment & Neighbourhood Officer, N Glasscock attended the Sub-Committee on behalf of her colleague, R Thomason. She advised that the officer had expressed concern regarding the elevated roof terrace and potential noise nuisance due to the locality and proposed hours of use. The officer recommended that should the Sub-Committee be minded to grant the application the roof garden should be closed at 22:00 hours to all patrons and smokers be directed to another external smoking area on street level. Furthermore, the Environment & Neighbourhood Officer

advised that it would be unfair to consider the level of conversation on a raised terrace, of customer who had been potentially drinking and listening to loud music within the premises to be the same level as a normal conversation. The measure which Environment & Neighbourhood Officers used, to consider the impact noise was taken from the Wilson Report on Noise 1963, which considered the impact of noise on people's feelings, human values and the environment.

The representative from Epping Town Council, Councillor B Scrutton reported that they appreciated the contribution to the night time economy, although with the suggested increased hours and evidence which led to the permanent revoking of the previous premises licence, it was very concerning. Many local residents had strongly opposed the premises and the demographics of Epping, meant that very few local residents were likely use the premises.

The Town Council had not been made aware of the planning application for the roof terrace and some of the nearest residents at Bakers Villas were elderly which was a concern. Other issues included the litter and detritus left in the High Street which had been known to affect the Town Market and the Town Council thought the operating hours should be in line with other premises and therefore 12:00 a.m.

Councillor J M Whitehouse stated that as a local resident and Ward Councillor he had concerns that the operating hours had increase on Thursdays and Fridays to 03:00 am, and local residents were affected not just by the noise of the premises but the customers who come from the venue in the early hours of the morning. There had been a reduction in crime with local residents noticing the change and were finding the area a pleasanter place. Finally, even after the detailed and comprehensive policies and procedures provided by the premises, to mitigate the previous problems he still felt that it would require constant managing and monitoring, which had previously slipped therefore he could not support this the application.

The residents objecting to the application advised that the business was not in keeping with the surrounding area and that they were still not convinced by the measures put in place.

(e) *Questions for the Objector's*

The Barrister for the Applicant asked whether the Environment & Neighbourhoods Officer had read the report provided by Big Sky Acoustics Ltd regarding the noise levels in relation to the roof terrace. The Environment & Neighbourhoods Officer advised that another colleague had submitted the objection and that the team supported his recommendations. The Barrister advised that the acoustic report had been produced on the assumption of 20 customers talking at a slightly raised level, therefore it was contrary to the Officers remarks and he had tried to contact the relevant Officer regarding these discrepancies. The Environment & Neighbourhoods Officer advised that officers made their comments based on the assessment of human values and the effects on existing residents.

(f) *Closing Statements*

The Barrister for the Applicant advised that the decision to revoke Club 195's premises licence had been correct due to wholesale operational management failure. However, the Applicant had provided hard evidence in support of the application and had engaged experienced specialists with decades of experience and had invested £500,000 into the business. Furthermore, there had been a nightclub at this premises for 40 years. There had been significant changes within the management, policies

and procedures and everyone involved was committed to making it a successful business. The Sub-Committee were asked to consider the professional experts' evidence, the experienced DPS and the new conditions, policies and procedures.

(g) Consideration of the Application by the Sub-Committee

The Chairman advised that the Sub-Committee would withdraw from the Council Chamber to consider the application in private.

The Sub-Committee returned to the Council Chamber

The Chairman advised that the Sub-Committee had been grateful to all parties for their excellent presentations and had taken these and the written material submitted, into account.

The Sub-Committee had considered what was appropriate to promote the four licensing objectives and the relevant parts of the Council's Licensing Policy and the Home Office's guidance. During the Sub-Committee's deliberations in private session the legal adviser gave advice on the options available, which included;

- (1) to grant the licence subject to the conditions proposed in the operating schedule (modified to such extent as we consider appropriate for the promotion of the licensing objectives);
- (2) to exclude a licensable activity from the scope of the licence;
- (3) to refuse to specify the proposed DPS; or
- (4) to reject the application altogether.

The legal advisor had also advised that the Sub-Committee could not grant a time-limited licence but that the applicant could apply for temporary event notices and what activities a temporary event notice may permit.

RESOLVED:

That, the application for a premises licence for Playhouse and Essex Roof Gardens, 195 – 199 Cottis Lane, Epping be granted subject to the following conditions which were considered reasonable and proportionate for the promotion of the licensing objectives;

- (1) Conditions as submitted by the applicant on 28 July 2019 and which were admitted as evidence with the agreement of all parties at the hearing subject to the following modifications:
 - (i) on Fridays, Saturdays and Sundays all licensable activities on the premises shall cease by 0100;
 - (ii) on Fridays, Saturdays and Sundays the premises shall be closed to the public by 0130; and
 - (iii) the maximum number of persons permitted on the Garden Terrace at any one time shall not exceed 30 persons.
- (2) The mandatory conditions contained in Sections 19 -21 of the Licensing Act 2003 be attached to the license.

The Sub-Committee's reasons were as follows.

- (1) They were impressed by the evidence given on behalf of the applicant in particular the evidence of Mr Hoffelner. They were satisfied that there had

been a sufficient change of management of the premises which reduces the risk of the previous failures from recurring.

(2) They had noted from the Police evidence that the majority of the previous incidents of crime and disorder occurred between 0100 and 0300. However, they did not agree with the police's suggestion that there had been a stark reduction in crime since the closure of the premises.

(3) They acknowledged that the applicant had accepted the decision to revoke the Club 195 licence was correct as a result of a wholesale operational management failure.

(4) However, they were concerned that this application proposed to significantly intensify the use of the premises, compared to its operation as Club 195. Club 195 previously opened just one night a week whereas this proposal sought to open three nights a week.

(5) They would like to give the applicant an opportunity to make good on the promises made at the hearing. They acknowledged their collective experience but also had taken into account that the applicant was proposing a brand-new business model with new personnel and with a greater number of nights of operation.

(6) Taking all of this into account, they considered that requiring all licensable activities to cease at 0100, with the premises closing at 0130, strikes a fair balance and was appropriate for the promotion of the licensing objectives, in particular the crime and disorder and public safety objectives.

(7) By granting a premises licence, they had taken into account the applicant's right to apply for temporary event notices which would give them an opportunity to road test their new model to a later hour and the possibility of making an application to vary the licence granted, to extend the hours of operation, if the applicant could demonstrate that doing so would not undermine the licensing objectives.

(8) For completeness the Sub-Committee had also considered whether to curtail the hours during which the Garden Terrace may be used, and whether this would cause a public nuisance. They accepted the applicant's evidence that with appropriate mitigation measures, the use of this Terrace by no more than 30 smokers after 11pm would not undermine the public nuisance licensing objective.

CHAIRMAN