

Representations from George Pender (Local Cllr. for Ash and New Ash Green) in respect of the licence review at "The Vault".

To the Licensing board considering the review,

The police have given a submission seeking to show that that "The Vault" (also known as the Beverage Bank) is operating in a manner likely leading to increased crime and disorder and/or in a manner which is a threat to public safety and/or in a matter likely to lead to public nuisance.

I am currently unclear whether I will be able to appear at this hearing to give a view from the perspective of an elected representative of the residents of Ash and New Ash Green, hence this lengthy response which attempts to anticipate some of the arguments which are in need of rebuttal.

The most important aspect to convey is that this Public house is a clear asset to the community. It is quite clear that public nuisance, crime and threats to public safety are generally much reduced in any high street when that high street consists of worthwhile meeting places and activity, rather than abandoned shops (prior to the Vault's opening, it was an abandoned bank branch). The presence of this pub clearly increases the level of natural supervision an otherwise rather empty part of the village would receive in the evening. In other words, footfall from inherently decent patrons helps to make the row safer for all.

I cannot stress enough that this is a nice pub, it is a pub for moderate drinkers, it does not have a reputation for drug use or any other kind of immoral activity. Local clergy drink there. It is a highly respectable establishment.

Yours sincerely,

George Pender (Cllr. Ash and New Ash Green)

This submission is split into 4 parts in addition to this covering letter:

Background surrounding **the fire** (pages 2 and 3)

Other Background (page 4)

My Requests for four variations (or non-variations) in the licence. (page 5)

My Appendix – (page 6) referred to when writing about the fire.

The Fire:

The main reason for calling this licence for review seems to be a very small fire which occurred above the pub. It seems that some clothes were left by a (possibly defective) heater in a private (upstairs) part of the building. This caused a small fire. Upon discovering the fire it is unclear whether Mr. Kirkman immediately called the fire brigade before extinguishing the fire, or if he extinguished the fire before calling 999 (either might, of course, be a reasonable course of action).

In any event this small fire was extinguished before the emergency services arrived, as confirmed by the fire brigade upon their arrival at the scene.

By a stroke of bad fortune this fire occurred just after Mr. Kirkman and his partner had a row. The board will be aware that other loving couples have also been known to have arguments from time to time. Upon discovering the fire Mr. Kirkman made the **erroneous** initial assessment that his partner may have started the fire in a kind of mad (and highly improbable) escalation of their earlier disagreement. To use a familiar metaphor, Mr. Kirkman put 2 and 2 together and made 5; in calling 999 Mr. Kirkman made the further mistake of voicing a serious accusation against his partner before he had fully established the facts himself, i.e. he **incorrectly** suggested that she had started the fire.

Clearly no charges of Arson have been brought, and Mr. Kirkman now realises his mistake. Furthermore, assessment by the fire brigade, which has now had the benefit of full consideration over a length of time, has established that the remains of the fire were fully consistent with an accidental fire. It seems this was not known to the police at the time of their submission. The review board ought, therefore, to accept that this was an accidental fire. The fire brigade are called to something like 160,000 fire related events per year in the UK. Small accidental fires do sometimes happen, and it is important that, upon discovering them, steps are taken to extinguish (or at least contain) them. This one was quickly extinguished, by the person discovering the fire.

The police present it as a failure that, when they arrived, it seemed Mr. Kirkman had not evacuated the public portion of the building (a downstairs room vertically below the one in which there had been a small fire). However, clearly the very small fire had been extinguished at this point. By all accounts, this fire never threatened to spread to the downstairs parts of the building, nor was there significant (or indeed any?) smoke ingress to these parts. Had a threat to the downstairs parts materialised the building would have been easy to evacuate by either the front or back doors, both of which lead directly outside into fresh air. There is no suggestion that the fire brigade, upon arrival, felt it was necessary to evacuate either the pub itself (below the fire) or the rooms above or to the side of the fire (occupied by other tenants and which, presumably, would have been at equal, or greater risk). **The simple reason for this is that the fire had been quickly extinguished, and yet this is the main reason given for the licensing review.** In reality, a call to the emergency services may not have been necessary at all, but we cannot fault Mr. Kirkman's decision to make such a call.

In all this we should note:

- Mr. Kirkman called the fire brigade.
- Mr. Kirkman put out the fire, before the arrival of the emergency services.

After the fire was extinguished the Police attended and noted Mr. Kirkman's "disregard" for the fact that Police were present and his "disregard" for the fact that there was a "potentially lit" fire upstairs. However, Mr. Kirkman will have known that, at this stage, the fire upstairs was not "potentially lit". I am not sure what regard Mr. Kirkman is obliged to give to the presence of police officers, particular remembering that these officers were filming Mr. Kirkman during their interactions with him. That he was being filmed by Police may also have had a negative effect on

his demeanour (See my Appendix). It is quite understandable, given the situation, that Mr. Kirkman's focus would have been on people other than the police.

Mr. Kirkman did not have access to the upstairs living area at the time that police attended. I do not know why this was, perhaps his partner had stormed off with the keys (as any woman might if her beloved had erroneously accused her of arson).

However, had Mr. Kirkman simply refused permission for Police to take warrantless video footage in his upstairs living area (which was effectively their request, given that they were wearing cameras) that would have been, to my mind, perfectly reasonable (remembering that the fire had been extinguished). Though I should add that there is no suggestion that he made such a refusal, merely that he was unable to comply.

Other Background:

Although this review was precipitated by the fire, there are a number of other issues which the police raise, of varying levels of seriousness. These notes address such issues:

The premises licence is now on display, as confirmed by me (Feb 2020) and by the police (July 2019).

Relevant training (including environmental health training) has now been undertaken by relevant parties (including the employment of a new barman, Thomas, with extensive experience in other licenced premises, as well as an exemplary professional record). Mr. Kirkman will be able to advise as to the status of his own licensing training and that of his partner, which I believe to be up to date. It should be noted that, since this pub does not serve food (beyond perhaps unopened packets of crisps etc.) there is far more limited scope for unsanitary conditions to arise than in many pubs. While there is still some scope for useful environmental health training (e.g. in the maintenance of draft beer pumps etc.) there is no suggestion these tasks hadn't been done properly and I feel sure that, had the police noticed any likely failings of sanitation on the premises, they would have mentioned this in their submissions.

All relevant CRB checks have now been completed, in any case the hold up with this was not caused by Mr. Kirkman but rather, by whatever authority processes CRB checks.

There has been an historical issue caused by the combination of the 2007 laws on smoking in workplaces, and the lack of any outdoor space at the Vault in which it is permissible to have alcohol in open containers. I judge it likely to be true that customers have, previously, been unchallenged when going outside (with their drink) in order to smoke. Given the layout of the premises, and the citing of the back door to the pub, it would be perfectly appropriate (from the perspective of prevention of public disorder or nuisance) for people to step out to quietly have a cigarette without having to leave their drink in the bar. However, it is a technical breach of the licensing conditions and, as such, **it no longer happens**, with customers being reminded that they are not allowed to take their beer outside (however pettifogging that request may seem to customers). Clearly the Vault may later apply for a variation in the licence to allow people to step outside with their drink in this totally harmless way, but that is probably not within the scope of this review. In the meantime, I am sure that the Vault will continue to prohibit the carrying of drinks into the fresh air.

The Logbook being blank, and the log of refusals being blank (in November 2019) is not surprising given the sort of pub this is. It is not a pub that children try to get served in, it is not a pub in which I have ever noticed disorderly drunkenness (still less of a kind that often requires a formal refusal – rather than informal advice from the licensee). The fire not being logged in the logbook may have been an oversight, but it hardly amounts to an attempt to hide the fact of the fire, nor would it necessarily have been considered by the licensee as being an incident concerned with the public house itself.

I have not been able to view "Appendix A" (a submission from the Policy) nor have I (or Mr. Kirkman?) had sight of the police body worn camera footage, meaning that Mr. Kirkman has not been given full access to the evidence against him.

The licence is primarily concerned with the serving of paying customers, with alcohol. This is an activity which has not led to crime, has not led to any public nuisance, and has not led to public disorder.

My requests:

A. That the Vault be allowed to carry on trading, with Mr. Kirkman and his barman Thomas as the licensees. The desire to keep Mr. Kirkman as the licensee is not to question Thomas' professionalism (against whom there is not the faintest imputation from any quarter) but simply because the Kirkmans are fit and proper people to run the pub, and it is natural for the owner of a pub to wish to be named on the license.

B. That all requirement for "The Vault" to maintain any form of CCTV system be dropped from the licence conditions. This licence was granted under delegated powers and the requirement for CCTV was originally put into the operating schedule, by the licensee, on the request of the police. Given that a breach of the licensing conditions has been alleged in respect of the use/maintenance of the CCTV it would have been better for all concerned had no such requirement ever been put in. This is especially obvious given two important facts: Firstly, it has, in previous correspondence (between myself and both the political and officer leads on licensing) been made clear to me that CCTV would not have been insisted upon if it had not been included in the operating schedule. Secondly, subsequent to the granting of the original licence, the licencing policy has been changed by Council to insist that, "the use of CCTV on most premises is unlikely to be appropriate or required". This change in the licensing policy came about, in large part, as a result of representations made directly in light of experience based on this specific venue.

This is not a rowdy pub, it is on a small scale, in the centre of a lovely village. If you were to ask local residents, the vast majority would tell you that this is in the less troublesome 50% of local pubs, indeed the police ought to admit that this is the case. There is also a danger that the Police insistence that CCTV covers the entrance of the pub will lead to the movements of people being recorded on the Vault's CCTV even if their movements are unrelated to the pub. A removal of CCTV from the licensing conditions would not prevent the owners from maintaining cameras if they choose to (so long as they abide by conditions laid down in the CCTV code of conduct and from the information commissioner) but they should be free to remove them if they wish.

This would require removal of conditions 2 and 3 and alteration of conditions 4 and 5 to make clear that 4 and 5 only apply if CCTV is actually present.

C. That the owners and their employees be allowed full access to the upstairs portion of their premises, at the sole discretion of the owners. They do not intend to use it as a permanent dwelling place, indeed they probably only want to use it for storage, but, equally, if Mr. Kirkman wanted to set up a camp bed up there for occasional use I do not see that there is any objection to this, indeed no one minds other business owners occasionally sleeping above the shop.

This would require the removal of the prohibition notice. This has also been discussed with the fire brigade, regarding the required conditions in terms of fire alarms etc. You will note the heater which caused the fire has now been removed.

D. That the licensee be allowed to keep an A-frame board (with a reasonably generous size restriction, e.g. at most 4 feet [or 120 cm] high and 2.5 feet [or 80cm] wide) on the public space outside their premises (as happens for at least 3 other commercial outlets - including the tanning shop - despite tanning being an age restricted product with potential health detriments). I quite understand that certain types of alcohol promotion would be prohibited on this board (e.g. bulk discounts, happy hours etc.) but my understanding is that currently a board would be prohibited even if it only advertised soft drinks, quiz events etc.

This would require alteration of condition 1.

Appendix:

It should be noted that filming your interactions with another person, without asking their permission, is generally recognised by civilised people as being a hostile/rude act - (just imagine if Mr. Kirkman started filming this board during its deliberations, you might tolerate such an action but you would, no doubt, consider it to be a hostile/rude act, signalling mistrust). The fact that it has become increasingly commonplace for police to routinely film their interactions with the public does not reduce the innate hostility/rudeness comprised in one person seeking to film their interactions with another. Nor can we accept that the increasing regularity of police use of continuously recording body worn camera diminishes the rudeness of it. There is no basis for thinking that the camera attached to the chest is somehow more polite, or less hostile, than the handheld video camera (clearly how the camera is secured to a person does not make any difference to the way it ought to be perceived).