

## **Licensing Act 2003 - APPLICATION FOR A SUMMARY REVIEW OF A PREMISES LICENCE**

### **Licensing Sub Committee – 23 June 2014**

Report of Chief Officer Environmental & Operational Services – Mr Richard Wilson

Status: For Decision

Key Decision: No

**Contact Officer(s)** Leeann Leeds Ext: 7270

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### **Recommendation to Licensing Sub Committee:**

Members' instructions are requested

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### **Introduction and Background**

- 1 The procedure for Hearings of Sub-Committees of the Licensing Committee is established in accordance with Section 9 of the Licensing Act 2003.
- 2 The purpose of this report is for the Sub-Committee to consider whether it is necessary to impose interim steps on the premises licence pending the determination of a summary review of the premises licence.
- 3 The application is made by Superintendent Keers on behalf of the Chief Officer of Police for the Kent Police area for a summary review of the premises licence for Portobello Inn, London Road, West Kingsdown, Sevenoaks, Kent. TN15 6JB

### **The Grounds for Review**

- 4 On Friday 23 May 2014 there was an incident involving patrons of the premises which resulted in serious crime under Section 53A of the Licensing act 2003 (premises associated with serious crime or disorder).
- 5 A copy of the certificate and summary review application is attached to this report as Appendix B

### **The steps that the licensing authority may consider taking are:**

- The modification of the conditions of the premises licence;
- The exclusion of licensable activities from the scope of the licence;
- The removal of the designated premises supervisor from the licence;
- The suspension of the licence;

- The revocation the licence.

Modification of the conditions of the premises licence can include the alteration or modification of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place. Further examples of possible licensing conditions, including those aimed at tackling crime and disorder, can be found in the amended guidance issued under section 182 of the 2003 Act.

The licensing authority must take into account any relevant representations made. Relevant representations are those that:

- Relate to one or more of the licensing objectives;
- Have not been withdrawn; and
- Are made by the premises licence holder, a responsible authority or any other person (who is not also a responsible authority).

**Representations received from statutory consultees:**

Fire Safety	<b>NO COMMENTS RECEIVED</b>
Trading Standards	<b>NO COMMENTS RECEIVED</b>
Social Service	<b>NO COMMENTS RECEIVED</b>
Police	<b>SEE ABOVE STATEMENT</b>
Commercial	<b>NO COMMENTS RECEIVED</b>
Environmental Protection	<b>NO OBJECTIONS</b>
Development Control	<b>NO COMMENTS RECEIVED</b>

**Representations received from interested parties: - Appendix D**

32 objecting to the Review of the premises licence

**At the hearing the licensing authority must:**

- consider what steps it considers appropriate for the promotion of the licensing objectives; and
- decide which interim steps cease to have effect altogether or become the subject of any steps which it considers are appropriate when making its determination on the review.

## **Conclusions**

Without prejudice, the Officer would like to draw to Members attention issues that they may wish to consider.

The decision is to be made with regard to the Licensing Act 2003, Secretary of State's Amended Guidance issued under Section 182 of the Act and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from the Policy or Guidance the departure must be directed solely at the attainment of the prevention of public nuisance objective and such departure must be supported by clear and cogent reasons.

**Mandatory conditions** – the following conditions will be added to the premises licence when it is issued.

### **The supply of alcohol**

Where a premises licence authorises the supply of alcohol, the licence must include the following conditions:-

No supply of alcohol may be made under the premises licence -

- (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

### **Mandatory Conditions in force from 06 April 2010**

4. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

### **Mandatory conditions in force from 28 May 2014**

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1-

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
- (b) "permitted price" is the price found by applying the formula—  $P = D + (D \times V)$

where -

- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –
- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

## **Key Implications**

### Financial

None directly arising from this report.

### Legal Implications and Risk Assessment Statement.

This Hearing is regulated by The Licensing Act 2003 (Hearings) Regulations 2005

The decision is to be made with regard to the Licensing Act 2003, Secretary of State's Guidance issued under Section 182 of the Act and the Council's Statement of Licensing Policy. Where the decision departs from the Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and such departure must be supported by clear and cogent reasons.

### Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the	No	N/A

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
community?		
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	No	
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		N/A

## Appendices

Appendix A– Application for Review (**Exempt Information**)

Appendix B – Certificate Under section 53A(1)(b) of the Licensing Act 2003.

Appendix C – Current Premises licence

Appendix D – Plan of premises

Appendix E - Representations objecting to review

Appendix F – Note and Decision Notice from the Hearing on the 30 May 2014 (Interim Review)

Appendix G – Notes and Decision Notice from the Hearing on 4 June 2014 (Interim Appeal)

## Background Papers:

The Licensing Act 2003

Section 182 Guidance for Licensing Act 2003

**Richard Wilson**  
**Chief Officer Environmental & Operational Services**