

LICENSING ACT 2003 - APPLICATION FOR A SUMMARY REVIEW OF A PREMISES LICENCE

Licensing Sub-Committee – 9 September 2013

Report of Head of Environmental & Operational Services - Mr Richard Wilson

Status: For Decision

Portfolio Holder Cllr. Ms Lowe (Housing and Community Safety)

Contact Officer(s) Mrs Leeann Ext. 7270

Recommendation to Licensing Sub-Committee: Members' instructions are requested

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 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 The Royal Oak, West Yoke, Ash, Sevenoaks, Kent. TN15 7HT on the grounds of the licensing objectives of the prevention of crime and disorder. The application has been made in accordance with section 53A of the Licensing Act 2003.
- 3 The grounds for summary review are:

On Sunday 11th August 2013 there was an incident at the premises involving serious crime under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder).

A copy of the certificate and summary review application is attached to this report as Appendices A and 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- Have not been withdrawn; and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	NO COMMENTS RECEIVED
Trading Standards	NO COMMENTS RECEIVED
Social Service	NO COMMENTS RECEIVED
Police	SEE ABOVE STATEMENT
Commercial	NO COMMENTS RECEIVED
Environmental Protection	NO OBJECTIONS
Development Control	NO COMMENTS RECEIVED

Representations received from interested parties: - Appendix E.

1 in support of the Review of the premises licence

15 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.

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 No. 44.

The decision of this Hearing will be encompassed within the issued premises licence, and the licence will take effect on the 9th September 2013 subject to any appeal to a Magistrates Court or higher Court.

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 community?	No	N/A
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?		

Conclusions

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

The following conditions are already added to the premises licence.

Mandatory conditions

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

1. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

Irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children -

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -

(i) Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) Drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than

any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on -

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

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.

5. The responsible person shall ensure that -

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -

(i) beer or cider: $\frac{1}{2}$ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

Conditions consistent with the Operating Schedule

No admission to the premises after Midnight.

CCTV will be installed and working to the satisfaction of the police and Licensing Authority.

The patio doors to the garden and main bar door/lobby should not be opened at any time during the type of entertainment.

The location of the entertainment should be to the rear of the bar area which is predominately constructed of brick, with speakers facing into the building towards the front door.

Any refuse and empty bottles should not be put out in the refuse areas after 21:00 hours at night.

Entertainment from music, including live, recorded, karaoke music, television should cease at 23:00 hours Monday, Tuesday, Wednesday, Thursday and Sunday and at 00:00 hours Friday and Saturday.

Performers should be supervised to ensure the loading of equipment at the end of any gig does not disturb surrounding residents.

Condition to be placed on the licence following the interim steps hearing

A suitable Drugs Policy to be worked on and permanently put in place.

The following were added to the Licence as follows (pending the full review hearing):

CCTV to be adapted and outside camera repaired, to allow immediate taking of images recorded by police upon arrival whether on disk, video tape or otherwise. All recording to be kept for a minimum period of 28 days – prevention of crime and disorder, by allowing immediate viewing and circulation aiding apprehension of offenders – this allows an interim measure by the premises with CCTV coverage continuing following an incident.

Additional visits by brewery staff to be carried out.

Supply of alcohol:

Sunday to Thursday 10:00 - 23:00
Friday and Saturday 10:00 - 23:00

The opening hours of the premises:

Sunday to Thursday 10:00 - 23:30
Friday and Saturday 10:00 - 23:30

The designated premises supervisor where the premises licence authorises for the supply of alcohol be changed from

Mr Kevin Morris
3 Gresham Close
Rainham
Kent. ME8 7RR

to

Samantha Pegler
Royal Oak,
West Yoke,
Ash TN15 7HT

The reason for the above modifications to the premises licence is to take interim steps due to the potential undermining of the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance in light of an alleged breach of licence conditions, until a full review hearing is held.

Appendices

Appendix A – Summary Licence Review Application

Appendix B – Certificate under section 53A(1)(b) of
The Licensing Act 2003

Appendix C - Current Premises Licence – Part A

Appendix D - Location maps

Appendix E - Representations received from interested parties

Appendix F – Minutes of the Licensing ‘Interim Steps’ hearing held on 19 August 2013

Background Papers:

<https://www.gov.uk/government/organisations/home-office/series/alcohol-licensing-premises-licence-application>

The Licensing Act 2003

Section 53A Licensing Act 2003 – Summary Review Guidance

Section 182 of the Licensing Act 2003 guidance

Section 21 of the Violent Crime Reduction Act 2006

Mr Richard Wilson
Head of Environmental & Operational Services