

EXPEDITED/SUMMARY REVIEW PROCESS AND RECENT APPLICATION

Licensing Committee – 26 June 2014

Report of Chief Officer Environmental and Operational Services

Status: For Information

Key Decision: No

Executive Summary: This report is intended to inform members of the Licensing Committee of the procedure for Expedited/Summary Review Applications and the recent application received by the Licensing Authority.

This report supports the Key Aim of Safe Communities to aid in the reduction of crime within the District.

Portfolio Holder Cllr. Ms Lowe

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Recommendation to Licensing Committee: That the report be noted.

Introduction and Background

1. The Licensing Act 2003 allows a quick process for attaching interim conditions to a licence and a fast track licence review when the police consider that the premises concerned is associated with serious crime or serious disorder (or both).
2. These provisions were inserted at section 53A of the 2003 Act by the Violent Crime Reduction Act 2006 and came into force on 1 October 2007.
3. The new powers apply only where a premises licence authorises the sale of alcohol.
4. The powers do not apply in respect of other premises licences, nor to those operating under a club premises certificate.
5. The purpose of the new powers is to complement existing procedures in the Licensing Act 2003 for tackling crime and disorder associated with licensed premises. The existing powers provide for the instant closure of premises by the police in some circumstances, and the review of premises' licences by the licensing authority.
6. The new powers are aimed at tackling serious crime and serious disorder, in particular (but not exclusively) the use of guns and knives.

7. The new powers allow:
- the police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with serious crime or serious disorder (or both); and
 - the licensing authority to respond by taking interim steps quickly, where appropriate, pending a full review.
8. In summary, the process is:
- a local chief officer of police may apply to the licensing authority for an expedited review of a premises licence where a senior police officer has issued a certificate stating that in his/her opinion the premises are associated with serious crime or serious disorder (or both)
 - on receipt of the application and the certificate the licensing authority must within **48 hours** consider whether it is necessary to take interim steps pending determination of the review of the premises licence.
 - The authority must in any event undertake a review within 28 days of receipt of the application.
9. The range of options open to the licensing authority at the interim steps stage are:
- modification of the conditions of the premises licence
 - the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence
 - removal of the designated premises supervisor from the licence; and
 - suspension of the licence.
10. In reaching a decision, members **must** have regard to the following:
- The application form for a summary Licence Review;
 - The certificate issued by the police that accompanied the application;
 - Any representations by the police; and
 - Any representations made by the holder of the premises licence.

The recent application

11. On 28 May 2014 an application was made to the Licensing Authority 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 Licensing Authority convened a sub-committee to hear the application at an Interim Licensing Meeting on Friday 30 May.

12. The sub-committee heard that 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).
13. Having heard evidence from both parties the sub-committee made the decision to suspend the premises licence. Their reasons were that the Committee was satisfied on the basis of the information given in the application that on the day of the incident 23 May 2014 the supervision of the premises was not sufficient and that this contributed to the serious incident that occurred. Given the seriousness of the incident, suspending the licence in the interim was proportionate and necessary.
14. On 2nd June 2014 a representation was made by the Premises Licence Holder appealing the decision made by the Sub-Committee on 30th May 2014 to suspend the premises licence.
15. Following the requirements of the legislation the representation made on behalf of Greene King Retailing Limited, the Premises Licence Holder was considered on Wednesday 4 June 2014. The sub-committee having heard from both parties decided to impose a number of conditions which must be adhered to allowing the premises to open again.
16. The conditions that were added to the Licence as follows (pending the full review hearing):

Prevention of Crime and Disorder

- A CCTV system is to be installed to an appropriate standard as agreed with the police. The premises licence will remain suspended until the system becomes fully operational.
- The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and recordings shall be kept for a period of 28 days.
- The correct time and date will be generated onto both the recording and the real time image screen.
- If the CCTV equipment breaks down the designated premises supervisor shall ensure the licensing authority and the police are informed as soon as is reasonably practicable. This information shall be contemporaneously recorded in the incident book and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The licensing authority and the police shall be informed when faults are rectified.
- The designated premises supervisor shall ensure that there are trained members of staff available during licensable hours to be able to reproduce and download CCTV images into a removable format at the request of the licensing authority or responsible authorities.

- There shall be clear signage indicating that CCTV equipment is in use and recording at the premises during.
- CCTV cameras shall monitor all areas used by premise patrons including any external smoking area and the car park to monitor numbers and prevent crime and disorder.
- Signage must be displayed indicating that CCTV equipment is in use and recording at the premises.
- An incident logbook/refusals register will be kept by the designated premises supervisor. This will be in a bound book in which full details of all incidents are recorded. This shall include details of any refused sales and shall give details of the persons involved, incident description, time and date, actions taken and final outcome of the situation. This shall be completed as soon as possible and in any case no later than the close of business on the day of the incident. The time and date when the report was completed, and by whom, is to form part of the entry. The logbook is to be kept on the premises at all times and shall be produced to a responsible authority upon request.
- A written procedure will be produced and promulgated to staff to ensure the police will be called in the event that any criminal incident takes place or appears to be imminently likely to take place at the premises and staff will co-operate in any police investigation.
- For any pre arranged event a risk assessment shall be prepared and provided to the police.
- Either the DPS her husband or her mother to be present at all times when sales take place.
- The external areas are to be monitored and check sheets shall be used to confirm this is being done.

Public Safety

- The designated premises supervisor shall provide training for all staff to ensure that they are familiar with the premises licence, the Licensing Act 2003 and the appropriate procedures in case of an emergency. A record of the training shall be maintained and shall be available upon request by the licensing authority or responsible authorities.

Prevention of Public Nuisance

- Notices will be displayed at all exits instructing customers to respect the needs of local residents and leave the premises and the area quietly.
- Performers will be supervised to ensure the loading of equipment at the end of any event does not disturb surrounding residents.
- The external area shall only be open to customers until 11pm. Adequate notices will be displayed to inform patrons of this requirement. After this time smoking

only will be permitted.

- The designated premises supervisor shall take all reasonable steps to ensure that patrons using the outside areas do so in a quiet and orderly fashion. Staff will regularly monitor the external area to ensure customer behaviour is acceptable.

Protection of Children from Harm

- A challenge 21 policy will be used whereby any person who appears to be under 21 years of age and is attempting to purchase alcohol will be asked to provide identification. The only acceptable proof of age identification will be a passport, a photo driving licence, an EU identity card, military identification or a PASS approved proof of age card. Staff will be trained in this policy and records of the training will be kept.
- Children will only be permitted on any part of the premises when accompanied by an adult and must leave the premises by 8pm, unless they are taking a table meal or attending a function when they will be permitted to stay until the end of the meal or function. This does not apply to the immediate family of the DPS.

17. These modified interim steps are effective from 4 June 2014.

18. A final decision will be taken at a full Hearing on Monday 23 June 2014 where representations will be heard from other responsible authorities and members of the public.

Key Implications

Financial

The report is for information only.

Legal Implications and Risk Assessment Statement.

The report is for information only.

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	This is a report for information only to inform Members of the procedure for Expedited/Summary Reviews.
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		N/A

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
minimise the impacts identified above?		

Conclusions

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

All decisions made at sub-committees must be 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.

Appendices

None

Background Papers:

Section 53A Licensing Act 2003 -
<http://www.legislation.gov.uk/ukpga/2003/17/contents>

Revised guidance issued under section 182 of the
Licensing Act 2003 -
<https://www.gov.uk/government/publications/revised-guidance-issued-under-section-182-of-the-licensing-act-2003>

Mr Richard Wilson

Chief Officer Environmental and Operational Services