

**LICENSING ACT 2003 REVIEW APPLICATION - Ephesus, 57-59 High Street,  
Sevenoaks, Kent. TN13 1JF**

**Licensing Sub Committee - Friday 14<sup>th</sup> October 2022**

**Report of:** Chief Officer Planning & Regulatory Services

**Status:** For Decision

**Key Decision:** No

**Portfolio Holder:** Cllr. McArthur

**Contact Officer(s):** Jessica Foley, Ext. 7480

**Recommendation to Licensing Sub-Committee:**

The Sub Committee is asked to determine the Review Application in accordance with the Licensing Act 2003 (as amended), Sevenoaks District Council Statement of Licensing Policy, and the Home Office Guidance issued per Section 182 of the Licensing Act 2003, whilst having due regard to the applicant's submissions and subject's representation.

**Reason for recommendation:** A Review application has been received in relation to a Sevenoaks District Council Licensed Premises pursuant to Section 51 of the Licensing Act 2003.

## **Introduction and Background**

- 1 On 12<sup>th</sup> July 2022 a review application was submitted by Ms Susan Lindsey, Senior Licensing Officer, Licensing Authority in relation to Ephesus, 57-59 High Street, Sevenoaks, Kent. TN13 1JF accompanied by a witness statement and video evidence. **(Appendix A to S)**
- 2 The proceedings set out in the Licensing Act 2003 for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives occur after the grant of a premises licence.
- 3 At any stage, following the grant of a premises licence, a responsible authority, or any other person, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 4 The grounds for review in this particular case are outlined by the applicant in their review application **(Appendix A)** where unauthorised licensable

activities being the sale of alcohol and the provision of regulated entertainment were witnessed.

- 5 The Premises Licence Holder, Mr Cihangir Surucu was served a copy of the review application on 12<sup>th</sup> July 2022.
- 6 Licensing Objectives which are the subject of this Review is The Prevention of Crime and Disorder.
- 7 The review application has been advertised in line with the Licensing Act 2003 (Premises Licence and Club Premises Certificates) Regulations 2005.
- 8 An original hearing date was set for 30 August 2022, but the Hearing was rescheduled to allow new representatives for the Licence Holder time to prepare.

### **Background information**

- 9 On 27<sup>th</sup> July 2021 Licensing liaised with Environmental Health regarding a noise complaint at 23:15 hours on Friday 23<sup>rd</sup> July 2021. The DJ was very loud and the doors were open onto the garden.
- 10 When an Environmental Health Officer arrived at 23:20 hours there were two bouncers outside and two lads going into the premises, the Environmental Health Officer could hear music when the door was open and there were quite a few people milling around outside.
- 11 A Senior Licensing Officer spoke to Mr Surucu and notified him of the issues raised above. He categorically states that the music finishes at 11pm and the doors to the back garden are kept closed. The people out the front are smokers (as he doesn't want them in the back garden as he has neighbours who are close) - and those customers out the front are monitored by the SIA staff. I have notified Mr Surucu that music must NOT play beyond 11pm and any background music should not be audible even with the doors open.
- 12 On 09/08/2021 Licensing received information from the Police regarding noise and antisocial behaviour from the premises as well as a breach of licensing hours. A Senior Licensing Officer requested CCTV to pass over anything from the weekend of 6th and 7th August from midnight to 12.45am - and anything else from previous weekends where issues may have occurred. CCTV responded that there is no real indication that the premises are operating beyond their licensing hours from any footage they have.
- 13 On 06/01/2022 Licensing were notified that Environmental Health had received a complaint regarding Ephesus. They were not able to enforce mask wearing in hospitality at the moment, but the complainant made some

comments about overcrowding and also keeping the doors shut. Licensing confirmed that there are currently no conditions regarding doors and windows being kept closed at the premises and that they do not have music on their licence so under deregulations they need to stop at 23:00 hours unless a TEN (Temporary Event Notice) is in place.

- 14 On the 09/02/2022 Licensing were informed that the Planning team had received an application for Ephesus to change the operating hours and a decision was due by 01/04/2022.
- 15 On 11/02/2022 Mr Surucu was emailed a letter from a Senior Licensing Officer to notify him that they were aware of complaints received by Environmental Health and to remind him of what his Premises Licence authorises. The letter stated that the name of this premises had been passed to the out of hours team. If they receive any further complaints regarding this premises, they will endeavour to visit to witness the situation. If they witness a breach of the licence conditions this Authority will consider formal action. Letter attached as **Appendix T**.
- 16 On 22/02/2022, Environmental Health arranged a meeting for Mr Surucu to attend the council offices to listen to some recordings that Environmental Health felt indicates excessive noise levels. Also in attendance was a Senior Licensing Officer and a Police Officer.
- 17 On 20/04/2022 Planning informed Licensing that the application for Ephesus to extend their opening hours had been refused.
- 18 On 24/05/2022 A Senior Licensing Officer attended a PubWatch meeting where other premises said their customers were telling them that Ephesus is open well past 23:00 hours which is their closing time for Planning and past 00:30 hours which is their closing time for Licensing.
- 19 On 26/05/2022 Licensing received a copy of a letter that Planning had sent to Ephesus following a reported breach of planning conditions. **Appendix U**.
- 20 On 27/05/2022 A Senior Licensing Officer, Ms Susan Lindsey visited Ephesus to undertake out of hours monitoring.
- 21 On 31/05/2022 Ms Susan Lindsey tried to call Mr Surucu regarding the monitoring of the premises and left a message on an answerphone leaving a contact number to call back.
- 22 On 07/06/2022 Ms Susan Lindsey called Mr Surucu at 09:35 hours. Mr Surucu answered but said he had just returned home from holiday and was too tired to speak. He was informed of the monitoring that had taken place and it was agreed that Ms Susan Lindsey would call back later that afternoon.

- 23 Ms Susan Lindsey called back at 15:35 hours. Mr Surucu informed her that he had been away for a couple of weeks. He was informed again about the premises being visited and that Ms Susan Lindsey purchased a gin and tonic after his licensing hours ended at 12 midnight. Mr Surucu told Ms Lindsey that his hours were until 12.30am, but that his application was being appealed by Lyondale. Lyondale are planning consultants, so Ms Susan Lindsey explained he had possibly just appealed the planning application submitted to increase his hours, not a licensing application as both his variation applications were withdrawn before any Committee so there is no decision of the Authority to appeal in this case. He seemed confused about this matter so he was advised to speak with Lyondale to get more clarity of their instruction.
- 24 Ms Susan Lindsey informed Mr Surucu that Licensing have two options with regard to the breaches of his licence as she considers offences under the Licensing Act 2003 might have occurred. Possible action the authority can take are a) to consider prosecution for the offences and/or b) review the licence. Ms Susan Lindsey asked if Mr Surucu had any CCTV footage from 27/05/2022 and he confirmed that his recordings last 1 month. She also asked if he would have a record of payments received across the bar which he said he would have. Ms Susan Lindsey informed Mr Surucu that he may wish to seek legal advice as her next step will be to invite him to an interview under caution for the offences she believes had taken place on 27/05/2022 under the Licensing Act 2003.
- 25 On 05/07/2022 An Interview under Caution was undertaken with Mr Surucu and a representative from Lyondale Limited.
- 26 On 11/07/2022 Ms Susan Lindsey emailed Mr Surucu to notify him that no prosecution proceedings will be pursued but a review application will be submitted.

### Responsible Authorities

- 27 The following responsible authorities have been sent notification of the review application by Ms Susan Lindsey and the response from authorities concerned is as follows:
- 28 Environmental Protection Comment Received (**Appendix Y**)
- |                       |  |
|-----------------------|--|
| West Kent Fire Safety | No comment                             |
| Trading Standards     | No comment                             |
| Public Health Kent    | No comment                             |
| SDC Planning          | Comment Received ( <b>Appendix V</b> ) |
| Kent Child Protection | No comment                             |

Health & Safety	No comment
Kent Police	Comment Received ( <b>Appendix W</b> )
Home Office	Comment Received ( <b>Appendix X</b> )

### Representations received from others

- 29 Representations supporting this review application have been received from 2 local residents and 1 person representing a business in the local area. A copy of these representations are at **Appendix Z**.

### Reviewed Premises

- 30 The premises licence at 57-59 High Street, Sevenoaks, Kent. TN13 1JF was transferred to Mr Cihangir Surucu on 23/10/2018 and renamed Ephesus (Formally Spice Club).
- 31 A variation application was issued on 15/07/2019 to include off sales of alcohol for online sales orders, alcohol sale only with food orders delivered to customers. The changes took effect from this date.
- 32 On the 29/06/2021 a variation application was submitted to extend the hours of operation and add live entertainment on Friday and Saturday evenings but this application was withdrawn on 09/09/2021.
- 33 On the 17/12/2021 a variation application was submitted to extend the terminal hour for sale by retail of alcohol Friday and Saturday until 01:00 hours and add Late Night Refreshment for Friday and Saturdays from 23:00 to 01:00 hours. This application was also withdrawn on 03/02/2022.
- 34 On the 19/08/2022 a witness statement was written along with evidence of unlicensed activities and a fight occurring outside the premises. All information is attached at **Appendix AA**.
- 35 On the 08/09/2022 a Minor Variation application was submitted to add conditions to the Premises Licence. Environmental Health commented on the wording of one of their suggested conditions and an agreement was made. Attached at **Appendix AB**. This licence was granted from 24/09/2022.
- 36 A copy of the current Premises Licence is attached to this report at **Appendix AC** showing the licensable activities currently authorised at the premises including the conditions attached to the licence. Plan of licenced premises at **Appendix AD**. Map of the area at **Appendix AE**.

## Licensing Sub Committee Considerations

37 In determining the Review application with a view to promoting the licensing objectives in the overall interests of the local community, the Licensing Authority must give appropriate weight to:

- The steps that are appropriate to promote the licensing objectives
- The representations presented by all parties
- The Home Office Guidance issued under Section 182 of the 2003 Act
- The Sevenoaks District Statement of Licensing Policy
- Any other relevant legislation including section 17 Crime and Disorder Act 1998 which imposes a duty on each local authority to exercise its various functions with due regard to the likely effect on the exercise of those functions and the need to do all it reasonably can to prevent crime and disorder in its area. The Sub Committee should also consider this application in light of the Human Rights Act 1998. It is unlawful for a public authority to act in a way which is incompatible with a human right.

## Sevenoaks District Council Statement of Licensing Policy

38 Sevenoaks District Council has produced a Statement of Licensing Policy in order to comply with its duties and powers under the Licensing Act 2003. A link to this Policy is in the Background Papers section at the end of this report.

39 The aims of the Policy are:

- To minimise nuisance and disturbance to the public through the licensing process
- To help build a fair and prosperous society that properly balances the rights of people and their communities
- To integrate its aims and objectives with other initiatives, policies plus strategies that will reduce crime and disorder, encourage tourism, encourage an early evening and night time economy which is viable, sustainable and socially responsible, reduce alcohol misuse, encourage employment, encourage the self-sufficiency of local communities, reduce the burden of unnecessary regulation on business, and encourage and promote, live music, dancing and theatre for the wider cultural benefit of communities generally.

## Options

40 Where the Sub-Committee considers that action under its statutory powers is appropriate, it must take such of the following steps as it considers appropriate (if any):

- Modify the conditions of the premises licence

- Exclude a licensable activity from the scope of the licence
- Remove the Designated Premises Supervisor
- Suspend the licence for a period not exceeding three months
- Revoke the licence

### **Right of Appeal against review decision**

- 41 An appeal against the review decision may be made to a magistrates' court within 21 days of the appellant being notified of the licensing authority's determination on the review. An appeal may be made by the premises licence holder and any other person who made relevant representations.
- 42 The decision of the licensing authority, following the review hearing, will not have effect until the end of the period allowed for appeal, or until the disposal of the appeal.

### **Key Implications**

#### 43 Financial

A decision made by the Sub Committee may be appealed by any party to the proceedings of a Magistrates Court. Costs associated with this matter and incurred by any party, may in certain circumstances be awarded against the Council.

#### 44 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 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.

#### 45 Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users

#### 46 Net Zero Implications

The decisions recommended through this paper have a remote or low relevance to the council's ambition to be Net Zero by 2030. There is no

perceived impact regarding either an increase or decrease in carbon emissions in the district, or supporting the resilience of the natural environment.



## **Appendices**

Appendix A - Review Application submitted by Ms Susan Lindsey, Senior Licensing Officer, Licensing Authority

Appendix B - Witness Statement: Ms Susan Lindsey

Appendix C to S - Evidence from Ms Susan Lindsey (Video Evidence not for public, for Licence Holder and Sub Committee to View)

Appendix T - Letter regarding complaints

Appendix U - Letter to Premises from Planning

Appendix V - Comments from Planning

Appendix W - Comments from Police

Appendix X - Comments from Home Office

Appendix Y - Comments from Environmental Protection

Appendix Z - Comments from others

Appendix AA - Supplementary Agenda

**\*\*Sections NC1 and SDL/20 of Appendix AA have been moved to the end of the Agenda pack\*\***

Appendix AB - EH comments agreeing wording of conditions for Minor Variation

Appendix AC - Current Premises Licence

Appendix AD - Plan of premises

Appendix AE - Map showing area

## **Background Papers**

[Licensing Act 2003](#)

[Revised Guidance issued under Section 182 Licensing Act 2003](#)

**Richard Morris**  
**Chief Officer Planning and Regulatory Services**