
APPLICATION FOR SUMMARY REVIEW FULL HEARING AND REVIEW OF INTERIM STEPS – MERLINS 47 LEYSDOWN ROAD LEYSDOWN SHEERNESS KENT ME12 4RB

To: Licensing Sub-Committee – Tuesday 1st August 2017 at 14:00

By: Mohammad Bauluck, Licensing Officer

Ward: Sheppey East

Summary: To consider this application for a summary review applied for by Kent Police and review interim steps taken on Monday 17th July 2017.

For determination on full review options set out at 3.1 and review interim steps shown at Appendix 6 taken on 17th July 2017, options at 3.2, to have effect until the full review determination is in place if interim steps are appropriate for the promotion of the licensing objectives.

1.0 General Points

- 1.1 Summary reviews of premises licenses were introduced by the Violent Crime Reduction Act 2006 from the 1st October 2007. They provide for a quick process for licence review when the police consider that the premises concerned is associated with serious crime or serious disorder (or both) and the Licensing Authority considering whether interim steps are necessary in respect of a licence pending determination of a full review.
- 1.2 A Superintendent of Police or above must provide a certificate that in their opinion the premises are associated with serious crime or serious disorder or both.
- 1.3 Where such an application for review is made the licensing authority must, within 48 hours of the time of its receipt, consider whether it is necessary to take interim steps pending the determination of the review of the premises licence and within 28 days after the day of its receipt review the licence.
- 1.4 The licensing authority has power to consider whether or not to take interim steps without giving the holder of the premises licence an opportunity to make representations. If the authority decides to take interim steps the decision takes effect immediately or as soon as after that as the authority directs but the authority must give immediate notice of its decision and of the reasons for making it to a) the holder/s of the premises licence and b) the Chief Officer of Police.
- 1.5 The holder of the premises licence may make representations against any interim steps and the authority must within 48 hours of receiving those representations hold a hearing to consider those.
- 1.6 The Policing and Crime Act 2017 sections 138 and 139 made amendments to the process of summary review and since 6, April 2017 any interim steps taken must be reviewed at the full review hearing to determine whether they are appropriate to promote the licensing objectives, considering any relevant representations and determine whether to withdraw or modify those steps. The reviewed steps then

apply until the period for appealing the full review decision has passed, or if it is appealed until that appeal is disposed of or until the end of a period that the authority determine but not longer than the above.

- 1.7 The Licensing Sub-Committee will be aware that it must carry out its functions under the 2003 Licensing Act with a view to promoting the licensing objectives. The Licensing objectives are: - the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm. In carrying out its licensing functions, the Licensing Sub-Committee must also have regard to its statement of licensing policy and the Guidance issued by the Secretary of State.

2.0 **Introduction and Background**

- 2.1 A premises licence was issued in November 2005 to Merlins 47 Leysdown road Leysdown Sheerness Kent ME12 4RB. Mrs Leonora Dunne and Mr Eli Thompson have been the Premises Licence holders since the grant of the Premises Licence in November 2005. A copy of the Premises licence showing the licensable activities and hours granted and applicable conditions is shown at **Appendix 1**.
- 2.2 On 22nd April 2009 the Police submitted a certificate under Section 53A(1)(b) of the Licensing Act 2003 for an Expedited review on Merlins in Leysdown on the ground of serious crime and disorder. The interim steps were put in place in a hearing held on Friday 24th April 2017. A copy of the certificate submitted by Kent Police is at **Appendix 2**
- 2.3 A full hearing of the Licensing Sub-Committee was held on Thursday 14th May 2009. Conditions were added to the Premises licence following the full hearing. A copy of the Premises licence with the attached conditions is shown at **Appendix 3**
- 2.4 Another application for an Expedited Review was made, at 16:38 on 13 July 2017 by Superintendent Lukey of Kent Police for a summary review of the premises licence for Merlins. A copy of the application and appropriate certificate is appended as **Appendix 4**.
- 2.5 A location plan of the premises is at **Appendix 5**
- 2.6 The grounds for summary review were that on Saturday, 9, July 2017 at about 01:15 there was a serious incident involving four males exiting Merlins Club and immediately punching another four males to the head causing serious injuries.

Injuries

Injured Person 1 – Male has suffered a fractured jaw in three places. This has required surgery and the insertion of a metal plate.

Injured Person 2 - Male was knocked unconscious at the time of the incident and required hospital treatment. This victim has subsequently suffered a potentially life threatening bleed on the brain.

Injured Person 3: Male has suffered a black eye and bruising to the rib area.

Injured Person 4: Male has suffered injuries to his facial area.

- 2.7 Police requested that Members consider suspension of the premises licence pending the full review hearing. Kent Police consider that this would allow the

premises to reset and the Police to examine operation of the premises more closely. During that time should revocation not be sought the Police and licence holders may be able to agree necessary alterations to the operation including but not limited to: reduction in the operating hours, the requirement for door staff and the potential change of management.

- 2.8 On 17 July 2017 Sub Committee Members considered the options available to them and the interim step of suspension of the Licence requested by Kent Police.
- 2.9 The Sub-Committee decided to suspend the premises licence with immediate effect. This suspension will be in place until such time that the CCTV evidence is provided to Kent Police in an appropriate format. In the event that the CCTV evidence is provided to Kent Police the suspension of the licence will be relaxed to allow pre-existing booked private functions to go ahead, subject to the Licence being modified by the following conditions:
 - (1) That during any private function there will be a minimum of 3 SIA door staff present for the entirety of the event.
 - (2) That the public bar will remain closed and access to the public bar will be shut off. The determination on interim steps is attached as **Appendix 6**
- 3.0 Notice of the review application was advertised as required and there have been no further representation from Responsible Authorities or other persons.
- 3.1 The Licensing Authority must now hold a hearing to determine its decision on full review, considering any relevant representations received and the relevant legislation, guidance and policy. They must take steps, as considered appropriate for the promotion of the licensing objectives from the following options:

Options

- (1) To consider no steps appropriate.
- (2) The modification of the conditions of the premises licence.
- (3) The exclusion of a licensable activity from the scope of the licence.
- (4) The removal of the designated premises supervisor from the licence.
- (5) The suspension of the licence.
- (6) The revocation of the licence.

Modification of existing condition/s can include alteration, omission or addition of any new conditions.

- 3.2 Following determination of the full review the Sub Committee must review the interim steps taken on 17, July 2017 and consider whether those steps are appropriate for the promotion of the licensing objectives, consider any relevant representations and determine whether to withdraw or modify the interim steps taken. The power to review includes power to take any of the following interim steps;

Options

- (1) The modification of the conditions of the premises licence
- (2) The exclusion of the sale by retail of alcohol from the scope of the licence
- (3) The removal of the designated premises supervisor from the licence
- (4) The suspension of the licence

Conditions of the licence are modified if any of them is altered; omitted or any new condition is added.

Any interim steps taken at this stage apply until the end of the period given for appealing the full review decision, if there is an appeal until the appeal is disposed of or the end of a period determined by the authority, which may not be longer than the above periods.

- 3.3 The hearing will be conducted following the procedure attached at **Appendix 7** The Licensing Act 2003 ss 53 A-D and Chapter 12 of the S182 Guidance as revised in April 2017 are particularly relevant.
- 3.4 The full review determination can be appealed by all parties, within 21 days of the decision being given, to the local Magistrates' Court. The review of interim steps determination can be appealed by the Police or Licence Holder within the same period to the Magistrates' Court. In respect of the review of interim steps determination the Court must hear the appeal within 28 days beginning with the day when the appeal is lodged. The full review decision does not have effect until the end of the appeal period or until its disposal and there is no time limit on the time for hearing. If there are appeals against both review of interim steps and the full review decision the Court may decide to hear both together.

4 **Corporate Implications**

5.0 **Financial**

None

5.1 **Legal**

As set out in the body of the report, The Licensing Sub-Committee must take account of the provisions of the Human Rights Act 1998; which gives further effect in the United Kingdom to the fundamental rights and freedoms contained in the European Convention on Human Rights. The Licensing Sub-Committee must have proper regard to the rights of the individual when making decisions that affect them. However, it also has to have regard to the safety and protection of the public and therefore to ensure that the right balance is found

5.2 **Corporate**

None

5.3 **Equity and Equalities**

Not relevant

6.0 **Recommendation**

That the Sub-Committee consider the application of Kent Police and any relevant representations and take such steps as it considers appropriate for the promotion of the licensing objectives.

Following the above determination review interim steps taken on 17th July 2017 and decide whether to withdraw or modify them, considering whether they are appropriate for the promotion of the licensing objectives and considering relevant representations

APPENDICES

APPENDIX 1 – Part A of Premises Licence of Merlins

APPENDIX 2 – Application form and certificate of Summary review sent by Police on 22nd April 2009

APPENDIX 3 – Copy of Premises licence following the hearing of 14th May 2009

APPENDIX 4 – Application form and certificate of Summary review sent by Police on 13th July 2017

APPENDIX 5 – Location map of Premises – Merlins

APPENDIX 6 – Record of Decision Interim Steps

APPENDIX 7 - Order of Proceedings

BACKGROUND PAPERS

Licensing Act 2003

Revised Guidance issued under S182 of the Licensing Act 2003

Licensing Act 2003 (hearings) Regulations 2005 (S.I 2005/44)

The Licensing Act 2003 (Premises Licence and Club premises Certificates) Regulations 2005

The Licensing Act 2003 – Section 53A (premises associated with serious crime and disorder)

Officer Contact: Mohammad Bauluck, Licensing Officer