

Agenda Item No: 1 – Summary of Report
Licence Reference SHE/SWALE/189/0445
Report To: LICENSING SUB – COMMITTEE
(UNDER THE LICENSING ACT 2003)
Date: 08TH AUGUST 2017
Report Title: Ivy Leaf Bar, Hotel Passage High Street Sheerness Kent, ME12 1NL

Application for Review of a Premises Licence

Report Author: Mohammad Bauluck

- Summary:**
1. The Applicant for Review – PC 11044 Hunt on behalf of Kent Police
 2. Type of application applied for: Review of a Premises Licence.
 3. Grounds for Review

THE PROTECTION OF CHILDREN FROM HARM, PUBLIC SAFETY
AND THE PREVENTION OF CRIME AND DISORDER

This review is following an incident whereby a 16 year old female was hospitalised after being found drunk by police and causing a disturbance. This female had spent an afternoon being served alcohol and drinking at the Ivy Leaf Bar.

In a two month period from April to May 2017 there were 9 recorded incidents at the venue, 2 of which involved males said to have been attacked with weapons. Another of these incidents involved a male that sustained an injury after a drunken fall.

Affected Wards: Sheerness Ward
Recommendations: **The Committee is asked to determine the application and decide whether to take such steps as members consider appropriate for the promotion of the licensing objectives.**

Policy Overview: The decision should be made with regard to the Secretary of State's Guidance and the Licensing Authority's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and that such departure be supported by proper reasons.

Other Material Implications: **HUMAN RIGHTS:** In considering this application it is **appropriate** to consider the rights of both the licence holder and the applicant together with other parties, such as **“responsible authorities” and/or “other persons ”** (objectors). The hearing procedure for reviewing premises licences has been formulated to ensure a fair hearing for all parties.

LEGAL: Under the Licensing Act 2003 the **Licensing Authority** has a duty to exercise licensing control of relevant premises.

Background Papers: Licensing Act 2003
DCMS Guidance Document issued under section 182 of The Licensing Act 2003 as amended
Swale Borough Council Statement of Licensing Policy

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Agenda Item No. 1

Report Title:

**Application for Review of a Premises Licence
Ivy Leaf Bar, Hotel Passage, High Street, Sheerness.**

Purpose of the Report

The report advises Members of an application for the review of a premises licence, brought by PC 11044 Hunt on behalf of Kent Police in respect of the premises Ivy Leaf Bar, Hotel Passage High Street Sheerness Kent, ME12 1NL. A copy of the Police review report is attached as **Appendix A**

Issue to be Decided and Options

1. Members must, having regard to the application and any relevant representations, take such steps mentioned below as members consider appropriate for the promotion of the licensing objectives.
2. The steps are:
 - To modify the conditions of the licence (including for a period not exceeding 3 months);
 - To exclude a licensable activity from the scope of the licence (including for a period not exceeding 3 months);
 - To remove the designated premises supervisor;
 - To suspend the licence for a period not exceeding 3 months;
 - To revoke the licence.
 - To issue a warning or caution.
 - To take no action.

Background

3. The relevant statutory provisions are sections 51 to 53 inclusive of the Licensing Act 2003. The Licensing Objectives are as follows:
 - The prevention of crime and disorder;
 - Public Safety;
 - The prevention of public nuisance; and
 - The protection of children from harm
4. The current premises licence was granted on 10th May 2016, a copy is attached as **Appendix B**. Plans of the premises and wider area are attached as Appendices C and D.
5. The application has been correctly advertised with a notice displayed on the premises and at the Council offices for the required period.

6. The applicant – Kent Police are seeking to review this licence in order to promote the licensing objectives and ask for:

Revocation of the premises licence

However, should the committee decide not to revoke the premises licence then Kent Police Licensing ask for:

- 1) Removal of the Designated Premises Supervisor
- 2) Suspension of the premises licence for a period of 28 days to allow the new Management to devise a strategy to tackle all the issues and allow the clientele base and working practices to reset.
- 3) The licence holder or designated premises supervisor shall ensure that at least one personal licence holder is available on the licensed premises at all times when the sale or supply of alcohol is being undertaken at the premises.
- 4) Age Verification policy challenge 25
- 5) The Premises Licence holder or Designated Premises Supervisor must keep an Incident register / refusal book. All staff to be trained to complete an incident book / records immediately after the incident but no later than the end of their shift.

The register must be kept on the premises and will detail

- Day, date and time of incident
- Nature of incident
- Resolution
- Each entry is to be checked and signed by the DPS/Licensee no later than 1 week after the entry has been made.

The register must be made available to Police, Police licensing officers and Authorised officers from Local Authority either electronically or hard copy.

7. Members are advised that they may only modify premises licences if it is **appropriate to promote the licensing objectives**.
8. The Licensing Section received an email from Sahota Newcomb Scott Solicitors who are representing the applicant – Copy is attached at **Appendix E**
This includes submissions on behalf of the applicant for Members consideration and includes statements from persons at the premises on 16, May 2017. It also indicates that the licence holder and his representative will give oral evidence and make submissions at the hearing.
9. During the consultation period the Licensing Section has received two representations (one by post and one by email) in support of the review attached at **Appendix F** and fourteen (14) representations by post from other persons supporting the premises attached at **Appendix G**
10. The Responsible Authorities made no representations.
11. However comments were received from Trading Standards, attached at **Appendix H**
12. Relevant sections of **The Guidance issued under section 182 of The Licensing Act 2003**;

Chapter 2 Licensing Objectives.
Chapter 10 Conditions attached to Premises Licences
Chapter 11 Reviews

13. Relevant policy statements **contained in The Licensing Authority's Statement of Licensing Policy (Dec 2015); Appendix I**

14. The decision should be made with regard to the Secretary of State's Guidance and the Licensing Authority's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from either the Guidance or the policy clear and cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal / challenge is increased.
15. Members of The Licensing Act 2003 – Licensing Sub – Committee are reminded of their duty under section 17 of the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the Licensing Authority's responsibility to co – operate in the reduction of crime and disorder in the Borough. Section 17 of the Crime and Disorder Act 1998 states:
 "Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that ireasonably can to prevent, crime and disorder in its area"
16. The decision should be made with regard to the Secretary of State's Guidance and the Human Rights: While all Convention Rights must be considered, those which are of particular relevance to the application are:
- Article 8 - Right to respect for private and family life
 - Article 1 of the First Protocol - Protection of Property
 - Article 6(1)- Right to Fair Hearing
 - Article 10 – Freedom of Expression

The full text of each Article is given in the attached Appendix J.

Conclusion

Members must ensure that the application is considered on its merits, as well as against the relevant guidance, policy and statutory framework.

List of Appendices

Appendix A	Application for Review
Appendix B	Current Premises Licence
Appendix C	Plan of the premises
Appendix D	Plan of the area
Appendix E	Email from Solicitors
Appendix F	Representations for the review
Appendix G	Representations against the review
Appendix H	Comments from Trading Standards
Appendix I	Swale Licensing Policy Extracts
Appendix J	Human Rights Article
Appendix K	Order of Proceedings

Appeal

17. The applicant, any other person and the licence holder may appeal the Licensing Act 2003 Sub Committee's decision within 21 days beginning with the day on which the Appellant is notified. All appeals must be lodged with the Magistrates' Court.

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