

## Swale Borough Council

**Report to:** Licensing Sub – Committee (Under the Licensing Act 2003)

**Date:** 28<sup>th</sup> November 2017 at 14:00

**Report Author:** Tom Dunn - Licensing Officer

**Subject:** Platinum Bar, First Floor 7-11 High Street, Sittingbourne, Kent, ME10 4AY

### **Purpose and summary of report:**

To consider an application, to which representations have been made, for a new Premises Licence application under the Licensing Act 2003 – application reference number SIT/SWALE/189/0684.

### **Recommendations:**

The Committee is asked to determine the application and decide whether to grant a licence. Members asked to consider the application on its merits.

Background papers: The Licensing Act 2003  
DCMS Guidance Documents issued under Section 182 of the Licensing Act 2003 as amended.  
Swale Borough Council Statement of Licensing Policy.

Contacts: Tom Dunn, Licensing Officer  
Email: [tomdunn@swale.gov.uk](mailto:tomdunn@swale.gov.uk)  
Telephone: 01795 417177

The Licensing Act 2003 Act requires the Council to publish a 'Statement of Licensing Policy' that sets out the policies the Council will general apply to promote the licensing objectives when making decision on applications made under the Act. The Policy will be available at the meeting for reference purposes.

Under the 2003 Act, it is the duty of all licensing authorities that, in carrying out their functions, they must have regard to guidance issued by the Secretary of State under section 182. The Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Provided that the licensing authority has properly understood and considered the Guidance, it may depart from it when it has reason to do so. However, as the licensing authority is under a duty to have regard to the Guidance, it will need to give full reasons for its departure from it. This would be a key consideration for the courts should departure from the Guidance result in a determination which gives rise to an appeal or judicial review. Should the need arise the Guidance will be available at the meeting for reference purposes.

The Licensing Authority must, under the Act refer any application for hearing to the Licensing Panel, if relevant representations are made by a responsible authority or other person. A copy of the Council's approved procedure for hearings of the Panel in relation to an application, along with a copy of the Hearings Regulations has been circulated to all parties prior to the meeting.

**Report Title: Platinum Bar, First Floor 7-11 High Street, Sittingbourne, Kent, ME10 4AY**

Application for: A premises licence to be granted under the Licensing Act 2003.

**Purpose of the report**

The report advises Members of an application for a Premises Licence to be granted under the Licensing Act 2003, made by Mr Daniel Price, in respect of the premises Platinum Bar (Appendix A and B) in respect of which nine (9) representations (Appendix C) have been received from members of the public.

The Police Licensing Team and Environmental Health have not made representations however they have agreed additional conditions as listed in 3 The Application (Representations).

**Issues to be decided**

1. Members are asked to determine whether to (i) grant subject to conditions consistent with the Operating Schedule modified to such an extent as considered appropriate for the promotion of the licensing objectives and any mandatory condition, (ii) grant excluding any of the licensable activities applied for, (iii) grant refusing to specify a premises supervisor, or (iv) reject the application.

**2. Background**

The Licensing Act requires the Council as licensing authority to carry out its various licensing functions so as to promote the following four licensing objectives:

- i) the prevention of crime and disorder;
- ii) the protection of public safety;
- iii) the prevention of public nuisance: and
- iv) the protection of children from harm

**3. The Application**

- a. On 3<sup>rd</sup> October 2017 an application was fully complete, from Mr Daniel Price for the grant of a premises licence under section 17 of the Licensing Act 2003 in respect of premises Platinum Bar at First Floor 7-11 High Street, Sittingbourne, Kent, ME10 4AY. The application is for provision of regulated entertainment and the supply of alcohol. The proposed hours of the licensable activities are as follows:

**Indoor Sporting Events, Recorded Music and Performance of Dance:**

Sunday – Thursday 12:00 – 00:00 (Midnight)

Friday – Saturday 12:00 – 03:00

Bank Holidays, St Days, Christmas Eve and New Year's eve until 03:00

**Live Music, anything of a similar description and Supply of Alcohol:**

Sunday – Thursday 12:00 – 00:00 (Midnight)

Friday – Saturday 12:00 – 03:00

Bank Holidays, St Days, Christmas Eve and New Year's eve until 03:00

**Late Night Refreshment:**

Sunday – Thursday 23:00 – 00:00 (Midnight)

Friday – Saturday 23:00 – 03:00

Bank Holidays, St Days, Christmas Eve and New Year's eve until 03:00

**Opening Hours:**

Sunday – Thursday 12:00 – 00:00 (Midnight)

Friday – Saturday 12:00 – 03:15

Bank Holidays, St Days, Christmas Eve, New Year's Eve until 03:15

- b. A copy of the application, which includes the operating schedule that details the steps the applicant intends to take to address the licensing objectives, is shown as Appendix A
- c. The application has been correctly advertised in the local press (Sittingbourne News 18<sup>th</sup> October 2017) and a notice has been displayed for the whole of the consultation period.
- d. The proposed Designated Premises Supervisor is Mr Jacob Mead-Baker.

**Representations**

Responsible authorities:

- Kent and Medway Fire & Rescue Service – No representations.
- Kent County Council Trading Standards – No representations.
- Kent County Council Social services Children & Families – No representations.
- Kent County Council Public Health – No representations.
- Home Office Immigration – No representations.
- Planning Department – Swale Borough Council – No representations.
- Environmental Health seek the attachment of the following conditions to clarify those proposed in the operating schedule, and assist in the promotion of the licensing objectives as agreed on 12<sup>th</sup> October 2017 via email.
- Kent Police seek the attachment of the following conditions to clarify those proposed in the operating schedule, and assist in the promotion of the licensing objectives as agreed on 31<sup>st</sup> October 2017 via email.

Conditions proposed by Environmental Health (1) and Kent Police (2-11):

1. All windows and doors to be kept closed at all times.
2. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition.
  - (i) Cameras shall encompass all ingress and egress to the premises, all stair wells, fire exits and all areas where the sale and supply of alcohol occurs.
  - (ii) Equipment must be maintained in good working order, be

correctly time and date stamped, recording must be kept on the hard drive and kept for a period of 28 days and handed to Police upon reasonable request.

(iii) The premises licence holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format to the Police and Local Authority upon reasonable request.

(iv) In the event of technical failure of the CCTV equipment the premises licence holder or DPS must report the failure to the Police Licensing Officer within 24 hours unless the CCTV will be repaired before that time

[licensing.north.division@kent.pnn.police.uk](mailto:licensing.north.division@kent.pnn.police.uk)

3. All persons that sell or supply alcohol to customers must have licensing training.
  - (i) Training should take place within six weeks of employment and any new employees will be supervised until the training has taken place.
  - (ii) Refresher training should be repeated a minimum of every six months or earlier if required due to changes of legislation.
  - (iii) Training records must be kept on the premises and shall contain the nature, content and frequency of all training.
  - (iv) Records must be made available for inspection by Police, Police Licensing Officer and authorised officers from the Local Authority upon request either electronically or hard copy.
4. A minimum of 5 SIA registered door supervisors will be employed at the premises on a Friday and Saturday after 2100 hours.
5. There will be a door control policy that outlines clear instruction and understanding of the door supervisor's responsibilities at the premises. This policy will contain:
  - (i) Details of how door staff prevent overcrowding.
  - (ii) How door staff will supervise the queue to ensure that it is managed in a way that avoids rowdy, unpleasant behaviour and to keep customers quiet as to not disturb neighbours in the vicinity.
  - (iii) A procedure for door staff ensuring all persons are searched as a condition of entry. At least one door supervisor must be available to undertake the body searches of the same customer gender before gaining entry to the premises.
  - (iv) A procedure to prevent patrons from leaving the premises with open containers and bottles.
  - (v) An incident and refusals register will be completed. Staff will complete this register as soon as practicable but no later than the end of their shift. This register will detail the Day, Date, Time and nature of an incident or refusal as well as any resolution. This register will be made available to Police or authorised officers from the local authority either electronically or hard copy.
6. The premises shall have a written drugs policy, this will detail the strategies to minimise the use and supply of illegal drugs within the premises. The drugs policy shall include:
  - (i) A structured training policy for all management covering the issues of misuse of drugs in relation to licensed premises.
  - (ii) An agreed procedure for the handling and retention of any

article seized.

(iii) Where premises consider a drug's safe to deposit drugs found, there will be a clear policy for the handling and packaging of seized items.

(iv) Records must be kept to show members of staff who have taken the training.

7. The premise will have an electronic device capable of scanning photographic identification which must be installed and maintained at the premises. This system must be connected to a database of legitimate identifications and be capable of matching scanned identification with the presenting persons fingerprint, photograph or other means of biometric data. This system will be used as a condition of entry for all persons entering the premises whilst licensable activity is taking place, with the exception of on duty staff, on duty emergency service personnel and pre booked entertainment artists. Accepted forms of identification will be passport, photo driving licence, or Proof of Age Standards Scheme (PASS).

In all circumstances of a breakdown or fault with the system, the police must be notified immediately and the fault rectified within 48 hours or a replacement would need to be installed/loaned in its place. The police may approve an extension to these timescales where they consider appropriate.

8. The Licence holder shall erect and maintain clear and prominent notices on the exterior of their premises advising patrons of any admission restrictions.
9. No entry or re-entry to the premises will be allowed after 01:30 hours.
10. All drinks will be supplied in polycarbonate or plastic vessels. All bottled drinks will be decanted into polycarbonate or plastic vessels. The only exception is bottles of spirits or champagne that will be confined to the 3 'VIP' booth areas.
11. The Licence holder shall erect and maintain clear and prominent notices displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly

- e. There has been nine (9) valid representation received from members of the public. Their comments are shown as Appendix C.

Responsible Authority / Other person	Licensing Objective	Associated Documents	Appendix
Members of the Public	Public Nuisance Public Safety Crime and Disorder Protection of Children from Harm	Nine (9) letters	C

#### 4. Policy Considerations

The following provisions of the Secretary of State’s Guidance apply to this application:

Chapter 2 – The licensing objectives

Chapter 8 – Applications for premises licences

Chapter 9 – Determining applications

Chapter 10 – Conditions attached to Premises Licences

The following paragraphs of the Council’s Statement of Licensing Policy apply to this application:

Sections 2.1 to 2.4 – These sections set out the Council’s approach with regard to licensing and details other mechanisms to deal with potential problems.

Section 1.1 to 1.4 – These sections set out the four licensing objectives and identifies matters that may be relevant to the promotion of each licensing objective.

#### 5. Determining the application – Options of the Panel

The Panel must, when reaching a decision on the outcome of the application, take into account the licensing objectives. Having had proper regard to the matters above the Panel may:

1. Grant the licence subject to such conditions as are consistent with the operating schedule accompanying the application; modified to such an extent as the Licensing sub-committee considers appropriate for the promotion of the licensing objectives and any relevant mandatory condition.
2. Exclude from the licence any of the licensable activities applied for.
3. Refuse to specify a person in the licence as premises supervisor.
4. Reject the application.

Members of the Licensing Act 2003 – Licensing Sub – Committee are reminded of their duty under the Section 17 of the Crime and Disorder Act 1989 to consider the crime and

disorder implications of their decisions and the Licensing Authority's responsibility to cooperate 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 is reasonably can to prevent crime and disorder in its area".

## **6. Implications Assessment**

The decision should be made with regard to the Secretary of the State's guidance and the Council'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.

## **7. 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 a fair hearing.
- Article 10 – Freedom of Expression

## **8. Recommendations**

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

## **9. List of Appendices**

Appendix A – Application form  
Appendix B – Plan of premises  
Appendix C – Representation (Other Persons)  
Appendix D – Plan of area  
Appendix E – Order of proceedings

## **10. Appeals**

The applicant or any other person (objector) may appeal the Licensing Act 2003 Sub Committee's decision within 21 days beginning with the day on which the Appellant is notified. All/any appeals must be lodged with the Magistrates' Court. Parties should be aware that they MAY incur an Adverse Cost Order should they bring an appeal.