

Licensing Sub-Committee Meeting	
Meeting Date	26 th September 2022
Report Title	Application for a summary review full hearing and review of interim steps regarding a premises licence under the Licensing Act 2003
Premises	The Warden Bay, Jetty Road, Warden, Sheerness, Kent ME12 4NF
EMT Lead	Emma Wiggins, Director of Regeneration and Neighbourhoods
Head of Service	Charlotte Hudson, Head of Housing and Community Services
Lead Officer	Christina Hills, Licensing Team Leader
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. That the Licensing Sub-Committee consider the application for review by Kent Police and any relevant representations and take such steps as it considers necessary for the promotion of the licensing objectives. 2. Following the above determination, to consider whether the interim steps decision made at the Licensing Sub-Committee meeting of 2nd September 2022 are appropriate for the promotion of the licensing objectives and consider any relevant representations to decide whether to withdraw or modify the interim steps.

1 Purpose of Report and Executive Summary

- 1.1 The Licensing Sub-Committee is asked to determine an application for a summary review regarding a premises licence granted under the Licensing Act 2003 in respect of premises known as The Warden Bay
- 1.2 Summary reviews can be undertaken when the police consider that the premises concerned are associated with serious crime or serious disorder (or both). The summary review process allows interim conditions to be quickly attached to a licence and a fast track licence review, which will be held within 28 days from the day after receipt of the summary review application. The initial consideration of interim steps takes place within 48 hours of receipt of the summary review application.
- 1.3 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.
- 1.4 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.

- 1.5 The licensing authority has the 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.
- 1.6 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.
- 1.7 The Policing and Crime Act 2017 sections 138 and 139 made amendments to the process of summary review and since 6th 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 interim 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 no longer than the above
- 1.8 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
 - the protection of public safety
 - the prevention of public nuisance
 - the protection of children from harm.
- 1.9 The Licensing Sub-Committee must also have regard to its Statement of Licensing Policy and to the Guidance issued under section 182 of the Licensing Act 2003. 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 reason for any 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.

2 Background

- 2.1 A premises licence was originally granted The Warden Bay, Jetty Road, Warden, Sheerness, Kent ME12 4NF on 26th September 2005. Until 2nd September 2022 the

premises licence holder who was also the Designated Premises Supervisor is Mr. Christopher Prime. A copy of this premises licence showing the licensable activities, licensable hours and applicable conditions is attached as **Appendix I**.

- 2.2 An application for a summary review of the premises licence was received on 31st August 2022 at 10:26 by Detective Superintendent Featherstone of Kent police. A copy of the summary review application and appropriate certificate detailing the circumstances for such an application are attached as exempt **Appendix II** and exempt **Appendix III**.
- 2.3 On 2nd September 2022 a meeting of the Licensing Sub-Committee was convened, and Members considered the options available to them and the interim step of suspension of the licence as requested by Kent police.
- 2.4 The determination of the Licensing Sub-Committee was:
 1. To remove Mr Christopher Prime as Designated Premises Supervisor from the premises licence.
 2. To add the following condition: In the event that an incident of violence occurs, or appears to have occurred on the premises it will be responsibility of management to immediately ensure that the police (and where appropriate, the Ambulance Service) are called without delay and the crime scene is preserved so as to enable a full forensic investigation to be carried out by the police.

The decision had immediate effect. The premises licence holder has not made representations against the interim steps.

- 2.5 On the same day i.e. 2nd September 2022 an application for the variation of the Designated Premises Supervisor (DPS) for the premises was received to take immediate effect. There were no objections to this variation received from Kent police and the DPS is now Yvonne O'Regan. The current premises licence remains the same in all other aspects, save for the addition of the interim step condition, and Mr. Christopher Prime is still the premises licence holder
- 2.6 Notice of the review application was advertised as required by legislation and there have been no representations from Responsible Authorities.
- 2.7 There have been six (6) representations from interested parties. These are shown as **Appendix IV**.
- 2.8 PC Ian Pickett subsequently provided supplementary information within the consultation period in the form of the required notice and a witness statement which are shown as exempt **Appendix V** and **Appendix VI**

3 Options

3.1 The first decision to make is in respect of the review. Members can determine the review application from the following options:

- (1) To consider no steps are 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 for a period not exceeding three months
- (6) The revocation of the licence

Modification of existing conditions can include the modification of an existing condition(s), or the omission or addition of any new conditions.

3.2 Following determination of the full review the Licensing Sub-Committee must review the interim steps taken on 2nd September 2022 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. Members can take any of the following interim steps:

- (1) The modification of the conditions of the premises licence
- (2) The exclusion 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

Modification of existing conditions can include the modification of an existing condition(s), or the omission or addition of any new conditions.

3.3 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 at the end of a period determined by the authority, which may not be longer than the above periods. At this stage, the previous interim steps imposed cease to have effect.

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.

3.5 The review of interim steps determination can be appealed by the Police or Licence Holder within the same period to 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 any effect until the end of the appeal period or until its disposal and there is no time limit on the time for the hearing. If there are appeals against both the review of interim steps and the full review decision the Court may decide to hear both together.

4 Implications

Issue	Implications
Corporate Plan	There are direct links to Priority 3 – 3.4 Ensure that the council plays a proactive role in reducing crime and antisocial behaviour.....
Financial, Resource and Property	There are no direct financial requirements at this time. There is the possibility of a challenge by way of an appeal.
Legal, Statutory and Procurement	<p>The Licensing Sub-Committee is obliged to determine this application with a view to promoting the four licensing objectives. In making its decision, the Licensing Sub-Committee is also obliged to have regards to the S182 Guidance that accompanies the Licensing Act 2003 and the councils Statement of Licensing Policy.</p> <p>The Licensing Sub-Committee must also have proper regard to the Human Rights Act 1998 in respect to the rights of an 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.</p>
Crime and Disorder	<p>The council has a 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.</p> <p>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 functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area”</p>
Environment and Climate/Ecological Emergency	No implications
Health and Wellbeing	No implications
Safeguarding of Children, Young People and Vulnerable Adults	Premises Licence Holders must be ‘fit and proper’ to operate licensed premises responsibly and uphold the licensing objectives which include ‘protection of children from harm’
Risk Management and Health and Safety	Departure from the Guidance and Statement of Licensing Policy could lead to an increased risk of appeal. Similarly, if any decision made is not evidence based and proportionate

Equality and Diversity	No implications
Privacy and Data Protection	Normal privacy and data protection rules apply.

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- **Appendix I** - Premises Licence reference number SHE/SWALE/189/0289 relating to The Warden Bay, Jetty Road, Warden, Sheerness, Kent ME12 4NF applicable until 2nd September 2022.
- **Appendix II** – Summary review application received from Detective Superintendent Featherstone, Kent Police
- **Appendix III** – Summary review certificate received from Detective Superintendent Featherstone, Kent Police
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- **Appendix IV** – Representations from interested parties in support of Mr. Christopher Prime
- **Appendix V** – Notice of supplementary information received from PC Ian Pickett, Kent Police
- **Appendix VI** – Witness Statement received from PC Ian Pickeyy, Kent Police

8 Background Papers

None