

Agenda Item No: 1 – Summary of Report

Licence Reference SIT/SWALE/189/0598
Report To: LICENSING SUB – COMMITTEE
(UNDER THE LICENSING ACT 2003)

Date: 14TH APRIL 2016

Report Title: Best One, 1-3 High Street, Sittingbourne, Kent, ME10 4AY
Application for Review of a Premises Licence

Report Author: Angela Seaward

Summary:

1. The Applicant for Review – DC Gill Angus on behalf of Kent Police
2. Type of application applied for: Review of a Premises Licence.
3. Grounds for Review

THE PREVENTION OF CRIME AND DISORDER

The DPS has failed to promote the prevention of crime and disorder objective as 58.8 litres of whisky that was non duty paid was removed from the premises by HM Revenue and Customs (HMRC) on Thursday 11th February 2016. In addition two of the current license conditions were being breached.

Affected Wards: Chalkwell 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 “interested parties”** (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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Application for Review of a Premises Licence

Purpose of the Report

The report advises Members of an application for the review of a premises licence, brought by DC Angus on behalf of Kent Police in respect of the premises Best One, 1-3 High Street, Sittingbourne, Kent, ME10 4AY.

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 27th August 2013, a copy is attached as Appendix B.
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:
- 1) Revocation of the premises licence
- However, should the committee decide not to revoke the premises licence then Kent Police Licensing ask for:
- 2) Suspension of the premises licence for a period of 3 months to allow the venue to rest.
 - 3) Modify the conditions of the license to amend the condition relating to single can and bottle sales to-
 - Only sales of 4 or more cans or bottles of beer, lager and cider shall be sold or supplied under any circumstances.
 - All alcohol must be purchased from a registered bona fide wholesaler and invoices pertaining to the purchases of alcohol must be retained on the premises for a minimum of 2 years and made available to police, Local Authorities Officers and HMRC Officers on demand
7. Members are advised that they may only modify premises licences if it is **appropriate to promote the licensing objectives**.
8. Relevant sections of **The Guidance issued under section 182 of The Licensing Act 2003**;
- Chapter 2 Licensing Objectives – para 2.1 onwards, Crime and disorder**
Chapter 10 Conditions attached to Premises Licences
Chapter 11 Reviews
9. Relevant policy statements **contained in The Licensing Authority’s Statement of Licensing Policy (Dec 2015)**;

Prevention of crime and disorder

17.9 Under the Act the Licensing Authority has a duty to promote the licensing objectives, and, a further duty under the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the borough.

17.10 The applicant will be expected to detail in their operating schedule how they will prevent crime and disorder on and close to the premises. Such detail should reflect the licensable activities on offer, location and character of the area, the nature of the premises use and the range of customers likely to use the premises.

These may include, but are not limited to, the following:

- prevention of disorderly conduct and anti-social behaviour
- prevention of underage drinking
- prevention of sales of alcohol to intoxicated customers
- prevention of drunkenness both on and in the vicinity of the premises
- prevention of drug use and drug dealing
- restriction to responsible drinks promotions
- use of safety glass
- inclusion of a wind-down time following alcohol sales period
- adequate seating to discourage “vertical drinking”
- the offer of food and snacks or other entertainment or occupation to discourage persistent drinking

17.14 The use of CCTV should be considered where appropriate or on the advice and recommendations of the Police and to a quality and standard approved by the Police for evidential purposes. Licensees will be expected to fully comply with the requirements of the Information Commissioners Office and the Data Protection Act 1998 in respect of any surveillance equipment installed at a premises.

10 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.

11 **Human Rights:** While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 6(1)- Right to Fair Hearing

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

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

- 12 Appendix A Application for Review
Appendix B Premises Licence
Appendix C Plan of the premises
Appendix D Plan of the area
Appendix E Human Rights Article
Appendix F Order of Proceedings

Appeal

13. The applicant, any interested party 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 any appeals must be lodged with the Magistrates' Court.

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