
APPLICATION FOR SUMMARY REVIEW FULL HEARING AND REVIEW OF INTERIM STEPS – THE GALLERY, 87 - 88 BANK STREET, MAIDSTONE, KENT, ME14 1SD

To: Licensing Sub-Committee – 30th September 2019 at 2:00 pm.

By: Lorraine Neale, Senior Licensing Officer

Ward: High Street

Summary: To consider this application for a summary review applied for by Kent Police and review interim steps taken on 6th September 2019.

For determination on full review options set out at 4.0 and review interim steps shown at Appendix 4 taken on 6th September 2019, options at 5.0, 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 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.
- 1.5 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 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 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 January 2011 to the Gallery, 87 - 88 Bank Street, Maidstone, Kent. ME14 1SD. Century Buildings (Rochester) Limited have been the Premises Licence holders since the grant of the Premises Licence in January 2011. On 9th September 2019, the designated premises supervisor (DPS), Carla Helyar advised the Licensing Department that she wished to withdraw as the DPS, there is no DPS in place at the premises currently. A copy of the Premises licence showing the licensable activities and hours granted and applicable conditions is appended at **Appendix 1**.

- 2.2 An application was at 16:22 on 4th September 2019 by Acting Superintendent Franklin of Kent Police for a summary review of the premises licence for the Gallery. A copy of the application and appropriate certificate, is appended as **Appendix 2**.

- 2.3 A location plan of the premises is at **Appendix 3**

- 2.4 The grounds for summary review were that on Sunday, 25th August at about 03:00, serious disorder occurred in Maidstone Town Centre, specifically focused in the area of Jubilee Square, within close proximity to the Gallery nightclub. Several sharply bladed weapons were used against a number of persons, resulting in serious injuries. A male died as a result of sustaining fatal injuries from a sharply bladed weapon during this disorder. This is of subject of a live murder investigation, where several persons have been arrested, including a 16 year old child, who has now been charged with murder.

- 2.5 Police requested that Members consider suspension of the premises licence pending the full review hearing. Kent Police consider that this would ensure public safety and to give an opportunity for the Premises Licence Holder and the police to fully consider appropriate measures to present to a full review hearing

- 2.6 On 6th September 2019 Sub Committee Members considered whether it was necessary to take interim steps pending the determination of the review applied for. In order to assist them and in the interests of fairness they allowed both Kent Police and the licence holders to address them prior to their decision.

- 2.7 After discussion with the Police and Licence Holders Members agreed that that only the suspension of the licence would properly promote the licensing objectives and that this interim step was necessary for the prevention of crime and disorder and the protection of children from harm. The determination on interim steps is attached as **Appendix 4**

- 3.0 Notice of the review application was advertised as required and there have been no further representation from any of the Responsible Authorities or other persons.
- 4.0 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.

- 5.0 Following determination of the full review the Sub Committee must review the interim steps taken on 6th September 2019 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.

- 6.0 The hearing will be conducted following the procedure attached at **Appendix 5** The Licensing Act 2003 ss 53 A-D and Chapter 12 of the S182 Guidance as revised in April 2017 are particularly relevant.
- 6.1 The full review determination can be appealed by all parties, within 21 days of the decision being given, to the 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.

7.0 **Corporate Implications**

7.1 **Corporate**

None

7.2 **Risk**

Not relevant

7.3 **Financial**

Not relevant

7.4 **Staffing**

Not relevant

7.5 **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

7.6 **Privacy & Data Protection**

Not relevant

7.7 **Equalities**

Not relevant

7.8 **Public Health**

Not relevant

7.9 **Crime and disorder**

Addressed with the relevant legislation

7.10 **Procurement**

Not relevant

8 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 6th September 2019 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 The Gallery

APPENDIX 2 – Original of application form and certificate of Summary review sent by Police

APPENDIX 3 – Location map of Premises – The Gallery

APPENDIX 4 – Record of Decision Interim Steps

APPENDIX 5 – 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)

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