

LICENSING ACT 2003 SUB COMMITTEE MEETING

Date: Monday 30 September 2019
Time: 2.00 pm
Venue: Town Hall, High Street, Maidstone

Membership:

Councillors Mrs Grigg, Joy, McLoughlin (Substitute: Councillor Springett)

The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.

AMENDED AGENDA

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Election of Chairman
4. Urgent Items
5. Disclosures by Members and Officers
6. Disclosures of Lobbying
7. To consider whether any items should be taken in private because of the possible disclosure of exempt information
8. Minutes (Part I) of the Meeting held on 6 September 2019 1 - 4
9. APPLICATION FOR SUMMARY REVIEW FULL HEARING AND REVIEW OF INTERIM STEPS – THE GALLERY, 87 - 88 BANK STREET, MAIDSTONE, KENT, ME14 1SD 5 - 31

PART II

To move that the public be excluded for the items set out in Part II of the Agenda because of the likely disclosure of exempt information for the reasons specified having applied the Public Interest Test.

Head of Schedule 12 A and Brief Description

10. Minutes (Part II) of the Meeting held on 6 September 2019 Paragraph 7 – info re crime 32 - 35

Issued on Monday 23 September 2019

Alison Broom

Alison Broom, Chief Executive

MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 SUB COMMITTEE

MINUTES OF THE MEETING HELD ON FRIDAY 6 SEPTEMBER 2019

Present: Councillors Mrs Hinder (Chairman), Hinder and Joy

5. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

6. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

7. TO CONSIDER WHETHER ANY ITEMS SHOULD BE TAKEN IN PRIVATE
BECAUSE OF THE POSSIBLE DISCLOSURE OF EXEMPT INFORMATION

RESOLVED: That the public be excluded from the meeting for the following item of business because of the likely disclosure of exempt information for the reason specified having applied the Public Interest Test:

**Head of Schedule 12 A
and Brief Description**

Expedited Review of a Premises Licence
under Section 53A of the Licensing Act 2003

Paragraph 1 –
Information relating
to any individual

8. EXPEDITED REVIEW OF A PREMISES LICENCE UNDER SECTION 53A OF
THE LICENSING ACT 2003

The meeting commenced at 11.07 a.m.

The Chairman requested that all those participating in the hearing identified themselves as follows:-

Councillor Mrs Wendy Hinder – Chairman
Councillor Bob Hinder – Committee Member
Councillor Mrs Denise Joy – Committee Member

Robin Harris – Legal Officer
Lorraine Neale – Senior Licensing Officer
Mike Nash – Democratic Services Officer

For the Applicant:

Mr James Williams – Kent Police
Mr Mark Beresford – Kent Police
Mr Chris Hill – Kent Police

For the Respondent:

Mr David Fuller – freeholder of the property and license holder of the premises

The Chairman asked all parties to confirm that they were aware of the hearing procedure.

The Committee Members confirmed that they had pre-read all the agenda papers and any other documents regarding the hearing.

The applicant was invited to give his opening remarks.

Mr James Williams outlined the nature of the serious disorder that took place in Jubilee Square on 25 August 2019 at 3.00 a.m. and explained that the security procedures adopted by The Gallery nightclub were relevant to the ongoing investigation.

Mr Chris Hill, Mr Mark Beresford and Mr James Williams responded to questions from the Committee relating to the incident and the security procedures at The Gallery nightclub.

The respondent was invited to give his opening remarks.

Mr Fuller confirmed details relating to the ownership and leasing of the premises license and explained the day-to-day management arrangements for the venue.

In response to questions from the Committee, Mr Fuller outlined the nature of the future events that had been booked at the venue and clarified that all events to be held on a Saturday had been cancelled.

Mr Harris asked Kent Police to comment on the Objectors counterproposal.

Mr Beresford and Mr Hill reasserted the reasons why the original proposal had been submitted.

The Chairman advised that the Committee would retire for deliberation.

The meeting closed at 11.58 a.m.

9. NOTICE OF DETERMINATION



RECORD OF CONSIDERATION OF INTERIM STEPS
LICENSING ACT 2003 SS53A –C

Applicant Summary Review: Superintendent Warren Franklin, Kent Police

Premises: The Gallery Bank Street Maidstone Kent ME14 1SD

Licence Holders: Mr Dave Fuller

Date of Consideration: 6th September 2019

Licensing Sub Committee Members: Cllr Wendy Hinder (Chairman)

Cllr Denise Joy

Cllr Bob Hinder

Legal Advisor in attendance: Robin Harris, Interim Team Leader
(Contentious), MKLS

Licensing Officer in attendance: Lorraine Neale

DECISION AND REASONS

The Sub Committee have considered whether interim steps are necessary in this case. They have considered the grounds set out in the application for summary review and the oral representations made by Kent Police and the Licence holder. This included the evidence in the summary review application. Also, conditions offered by the Licence holder as appropriate and proportionate to promote the relevant Licensing objectives were considered.

The Sub-Committee considered the options available to them, in particular the interim step of suspension of the Licence requested by Kent Police. Having heard representations from all parties the Sub-Committee were of the view 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 Sub-Committee considered that there were no conditions that could be imposed as interim steps in lieu of suspension and that the premises should use the suspension period as an opportunity to pause, consider its operating schedule and work with the Police in order to propose an updated operating schedule at the impending full review hearing.

The 'distraction' created by trying to dynamically risk assess and manage events in the interim period would hamper that process and there would be a very real danger that adequate risk assessments for events would be impossible in the short term due to the community tension around this premises.

For all the above reasons the interim step of suspension of the licence pending the full review hearing was appropriate, proportionate and necessary to promote the licensing objectives.

There is no right of appeal against this interim steps decision.

Dated: 6th September 2019

Signed: Signed copy kept on file

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)

Officer Contact: Lorraine Neale, Senior Licensing Officer

PREMISES LICENCE

The Licensing Act 2003
Schedule 12, Part A



Premises Licence Number	13/00735/LAPMV
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Part 1 – Premises Details

Postal address of premises , or if none, ordnance survey map reference or description, including Post Town & Post Code	
Gallery 87 - 88 Bank Street Maidstone Kent. ME14 1SD	
Telephone number	None Supplied

Where the licence is time limited the dates
Not Applicable

Licensable activities authorised by the licence
Plays Films Indoor sporting events Boxing or wrestling entertainments Live music Recorded music Performances of dance Anything of a similar description to the activities of live music, recorded music or the performance of dance Sale or Supply of Alcohol Late Night Refreshment

Times the licence authorises the carrying out of licensable activities
Plays (Indoors)
Every Day 07:00 - 04:00
<i>On a Sunday prior to a Bank Holiday until 05:00</i>
<i>On Christmas Eve, New Year's Eve and Boxing day until 05:00</i>
Films (Indoors)
Every Day 07:00 - 04:00
<i>On a Sunday prior to a Bank Holiday until 05:00</i>
<i>On Christmas Eve, New Year's Eve and Boxing Day until 05:00</i>
<i>24 hours usage if 7 days notice given to local authority and police</i>

Licence Number: 13/00735/LAPMV
Issue Date: 06/11/2018

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Licence issued by:
The Licensing Partnership P.O. Box 130 Sevenoaks Kent TN13 1GP
Telephone number: 01732 227004

Indoor sporting events

Every Day 07:00 - 04:00

On a Sunday prior to a Bank Holiday until 05:00

On Christmas Eve, New Years Eve, Boxing Day until 05:00

24 Hours usage if 7 days notice given to local authority and police

Boxing or wrestling entertainments (Indoors)

Every Day 07:00 - 04:00

On a Sunday prior to a Bank Holiday until 05:00

On Christmas Eve, New Years Eve, Boxing Day until 05:00

24 Hours usage if 7 days notice given to local authority and police

Live music (Indoors)

Every Day 07:00 - 04:00

On a Sunday prior to a Bank Holiday until 05:00

On Christmas Eve, New Years Eve, Boxing Day until 05:00

24 Hours usage if 7 days notice given to local authority and police

Recorded music (Indoors)

Every Day 07:00 - 04:00

On a Sunday prior to a Bank Holiday until 05:00

On Christmas Eve, New Years Eve, Boxing Day until 05:00

24 Hours usage if 7 days notice given to local authority and police

Performances of dance (Indoors)

Every Day 07:00 - 04:00

On a Sunday prior to a Bank Holiday until 05:00

On Christmas Eve, New Years Eve, Boxing Day until 05:00

24 Hours usage if 7 days notice given to local authority and police

Anything of a similar description to the activities of live music, recorded music or the performance of dance (Indoors)

Every Day 07:00 - 04:00

On a Sunday prior to a Bank Holiday until 05:00

On Christmas Eve, New Years Eve, Boxing Day until 05:00

24 Hours usage if 7 days notice given to local authority and police

Sale or Supply of Alcohol

Every Day 07:00 - 04:00

On a Sunday prior to a Bank Holiday until 05:00

On Christmas Eve, New Years Eve, Boxing Day until 05:00

24 Hours usage if 7 days notice given to local authority and police

Late Night Refreshment (Indoors)

Every Day 23:00 - 05:00

The opening hours of the premises

Every day 07:00 - 19:00

The non-standard opening hours of the premises

Not applicable

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption both on and off the premises.

Part 2**Name, (registered) address, telephone number and email address (where relevant) of holder of premises licence**

Century Buildings (Rochester) Limited
St. Peter's Studio
50 North Eyot Gardens
London. W6 9NL

Registered number of holder, for example company number, charity number (where applicable)

Registered Business Number 06907911

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Ms Carla Helyar
16 Watson Avenue
Chatham
Kent
ME5 9SG.

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Licence Number: MEDWAY-11-PL-2250
Licence Authority: Medway Council

John Littlemore
Head of Housing and Community Services
Maidstone Borough Council

Licence Number: 13/00735/LAPMV
Issue Date: 06/11/2018

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Licence issued by:
The Licensing Partnership P.O. Box 182 Sevenoaks Kent TN13 1GP
Telephone number: 01732 227004

Annex 1 – Mandatory conditions**The supply of alcohol**

- Where a premises licence authorises the supply of alcohol, the licence must include the following conditions:-

No supply of alcohol may be made under the premises licence -

(a) at a time where there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

- Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Mandatory conditions in force from 28 May 2014

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1-

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979

(b) "permitted price" is the price found by applying the formula— $P = D + (D \times V)$

where -

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. - (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Mandatory Conditions in force from 01 October 2014

1.— (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

3.— (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or

(b) an ultraviolet feature.

4. The responsible person must ensure that—

(a)where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i)beer or cider: ½ pint;
- (ii)gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii)still wine in a glass: 125 ml;

(b)these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c)where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available."

Exhibition of films

- Where the film classification body is specified in the licence, unless subsection (3) (b) applies, admission of children must be restricted in accordance with any recommendation made by that body.

- Where -

- (a) the film classification body is not specified in the licence, or
- (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

In this section -

"children" means person aged under 18; and

"film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

Door supervision

- Any premises which includes a condition that door supervisors must be at the premises to carry out a security activity, shall ensure that each such person is licensed to conduct such activities by the Security Industry Authority.

Annex 2 – Embedded conditions

Not applicable

Annex 3 – Conditions consistent with the Operating Schedule

Premises will have a monitored intruder alarm, inside motion detectors, window and door contact.

Exterior light on sensors.

Heavy duty window and door locks. Internal doors locked to private areas e.g.: cellar/storage.

Gaming Machines emptied on a regular basis.

Safes used for storage of money on site with regular banking. All cash removed from trading floor at close and draws left open.

Drug Awareness training for staff

Drugs Policy will be in place

We will have drug posters on site and work jointly on police initiatives

Staff are trained to check ID and acceptable forms and also in compliance of current licensing laws to comply with Challenge 21.

All fixtures that could be used as weapons are secured as best as possible.

SIA door supervisors used as required, including searching and control of patrons and regular checks of all areas of the premises.

Regular collection of bottles and glasses.

Keep record of incidents and 'known trouble makers' so that they can be excluded from the premises.

Staff use internal radios as required.

High Quality CCTV placed strategically

We comply with all statutory fire safety controls including the following:

Engineer Test and Certify the Fire Alarm annually

Engineer Test and Certify the Fire Appliances 6 monthly

Engineer Test and Certify Emergency Lighting annually

We train staff at induction and every 6 months in evacuation procedures and general fire safety including the practising of the evacuation drill.

We will also check all Fire appliances/lighting/call points thoroughly on a weekly basis and placement/function ability inspection prior to opening.

We will also continue to check Fire Doors on a monthly basis.

We will continue to use a risk assessment and review this on an annual basis or as required.

The venue will also be tested on an annual basis for Electrical (Periodic) safety and portable appliance testing.

We will comply with food safety regulations.

The premises is best adapted for wheelchair access within reasonable cost.

We have air conditioning and climate control.

We comply with all HSE requirements.

The premises will sound proof as much as possible walls and windows cost permitting.

Volume control will be limited by the management so as not to cause disturbance to residents in the area.

Notices are placed at the entrance and exit to remind customers to leave quietly.

Rubbish bins and glass refuge are kept at the rear of the premises away from the public access.

Collection of litter if caused.

We welcome comments from residents at any time.

Ensure all doors and windows are kept closed after 12am unless to enter or exit property.

If outside seating is present no patrons may use this after 11pm.

Management or SIA door supervisors as required will be used to help assist patrons leave the venue quietly when trading past 11pm.

Staff will leave the premises in a quiet manner.

We only accept photo passport or driving licence.

We keep records of all refusals.

We use SIA door supervisors or management to control admissions.

Train staff to ask for ID as required and acceptable forms.

If any activity of an adult nature is taking place under 18's will not be permitted in that area.

Annex 4 – Conditions attached after a hearing by the licensing authority

Not applicable

Annex 5 – Plans

Please see attached

OFFICIAL (when complete)


**Kent
Police**
**Application for the review of a premises licence
under section 53A of the Licensing Act 2003**

Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime, serious disorder or both)¹

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

I Superintendent 14607 Warren FRANKLIN

[on behalf of] the chief officer of police for the police area apply for the review of a premises licence under section 53A of the Licensing Act 2003].

1. Premises Details

Postal address of premises, or if none or not known, ordnance survey map reference or description:

Post town: Maidstone

Post code (if known): ME14 1SD

2. Premises licence details:

Name of premises licence holder (if known): The Gallery

Number of premises licence (if known): 18/00891/LAPL02

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or serious disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)



¹ SCHEDULE 8A Regulation 16A

OFFICIAL (when complete)



**Kent
Police**

**Application for the review of a premises licence
under section 53A of the Licensing Act 2003**

4. Details of association of the above premises with serious crime, serious disorder or both:
[Please read guidance note 2]

On 25th August 2019 at 0300 hours, 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.

It has come to light that the suspects, including the 16 year old, were inside the Gallery club, and left shortly before the serious disorder took place. The suspects were part of a group who were allowed access to the VIP area of the club during a live DJ event. No ID checks or searches were made of this group at the entrance. It is very likely the 16 year old was consuming alcohol. The event in question was not subject of proper due diligence checks by the club, and a specific risk assessment was not in place.

The premises have failed to take reasonable steps to uphold the licensing objectives relating to crime & disorder, public safety and the protection of children.

The Premises Licence Holder and the Designated Premises Supervisor have been open and honest with the police licensing investigation. However, whilst the club has been closed since the incident, it is unclear as to whether the venue will reopen, and in what form. Kent Police do not have confidence currently that all the required measures will be in place before the venue is reopen to the public in order to ensure public safety at future events. The venue rely heavily upon external acts to draw in custom, and these need to be fully risk assessed and managed, including the entry processes for guests and persons involved in the event.

Kent Police request therefore that the premises licence is suspended pending a full review. This is in order to 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.

As a result of this incident, there has been significant tensions within the community about public safety, not only locally but also nationally. This not only has an impact on policing within the community, but also on local businesses, specifically in the night time economy who rely heavily upon customers having confidence that they are safe.

Signature of applicant: 

Date: 4th September 2019

Capacity: Divisional Operations Superintendent

04/09/19

Contact details for matters concerning this application: PC 11187 Williams

OFFICIAL (when complete)



**Kent
Police**

**Application for the review of a premises licence
under section 53A of the Licensing Act 2003**

Address: Maidstone Police Station, Palace Avenue, Maidstone, Kent ME15 6NF
Telephone number(s): 101
Email: west.division.licensing@kent.police.uk

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means: -

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both. "

OFFICIAL (when complete)



**Kent
Police**

**Certificate to accompany application for the
review of a premises licence under
section 53A of the Licensing Act 2003**

Certificate to accompany application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime, serious disorder or both)¹

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

This certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

The senior officer must be of the rank of Superintendent or higher.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000.

In summary, it means: -

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

1. Premises Details

Postal address of premises, or if none or not known, ordnance survey map reference or description: Gallery, Bank Street

Post town: Maidstone

Post code (if known): ME141SD

In my opinion the above premises are associated with serious crime or serious disorder or both.

The nature of this offence is so serious as to justify the immediate decision to call an expedited review. Other powers under the licensing act, or other acts, are not appropriate and do not address the issue with immediate effect; a standard licence review would not suffice as it will take 28 days to come to hearing and may be appealed prior to application, allowing the public house to continue operating without any changes to its operation. This will fuel the risk of further serious crime occurring before sufficient measures can be put into place to prevent crime and disorder.

The benefits of dealing with this by way of an expedited review allows an interim step to apply immediately, thereby safeguarding members of the public and preventing further offences.

¹ SCHEDULE 8A Regulation 16A

OFFICIAL (when complete)



**Kent
Police**

**Certificate to accompany application for the
review of a premises licence under
section 53A of the Licensing Act 2003**

Kent Police are of the opinion that if the premises were to remain open to the public it may be a flashpoint for further incidents of serious crime and disorder. Furthermore, the Police wish to see this premises closed until a full review of the facts can be undertaken by the Council Licensing Committee with regard to the management of the premises. This enables consideration to be given as to whether further controls are required at the premises so as to prevent serious crime and disorder. Until this consideration is undertaken the Police consider that there is a risk of serious crime and disorder reoccurring at the premises.

Given the above Police are seeking the temporary suspension of the premises licence followed by a full review and are of the opinion that this is the appropriate course of action under the Licensing Act 2003 to preventing serious crime and disorder from reoccurring.

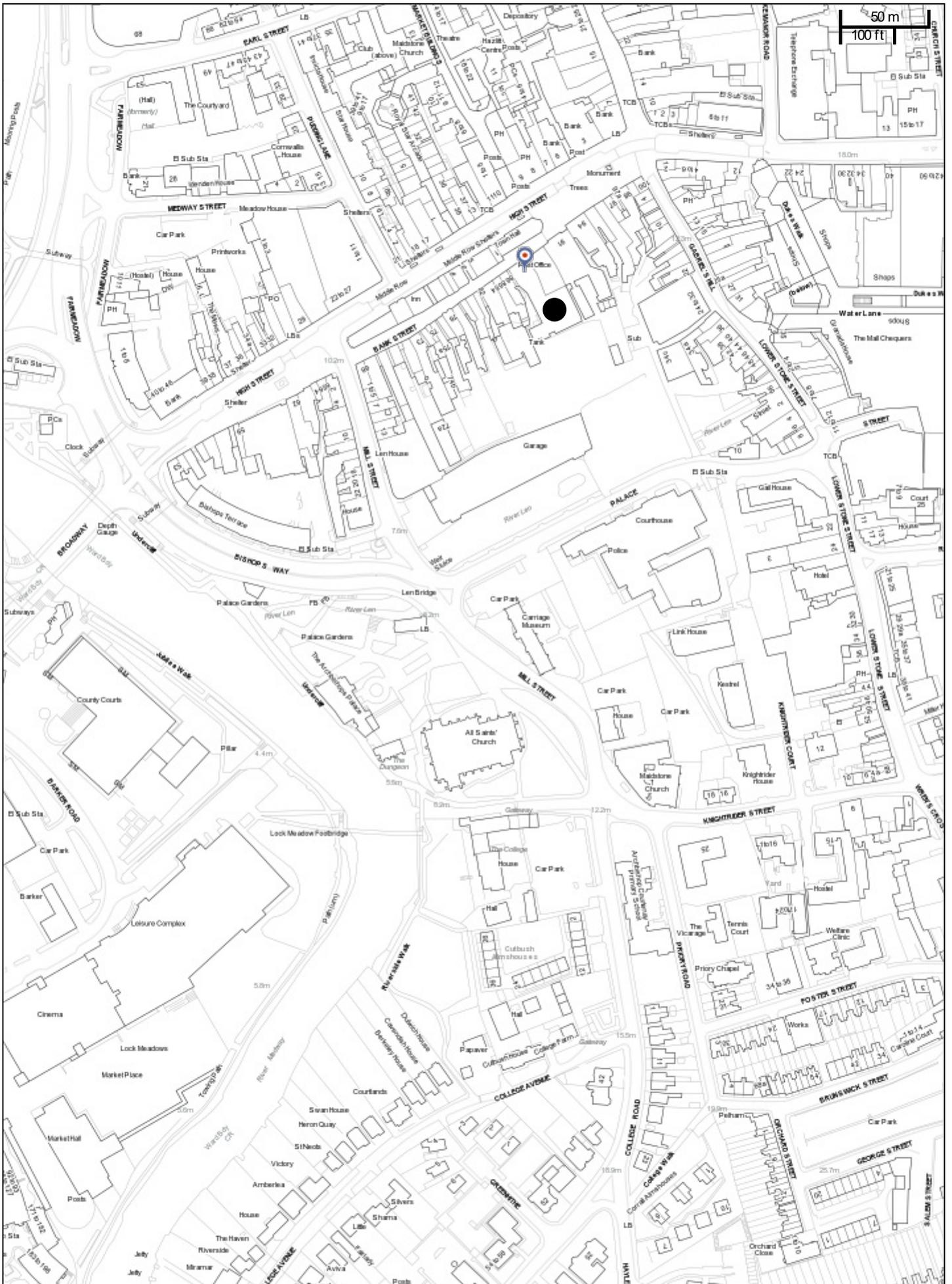
Signature:

A handwritten signature in black ink, appearing to read 'W. Franklin', written over a horizontal line.

Print Name: Warren FRANKLIN Rank: Superintendent

Number: 14607

Date: 4th September 2019



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RECORD OF CONSIDERATION OF INTERIM STEPS

LICENSING ACT 2003 SS53A –C

Applicant Summary Review: Superintendent Warren Franklin, Kent Police

Premises: The Gallery Bank Street Maidstone Kent ME14 1SD

Licence Holders: Mr Dave Fuller

Date of Consideration: 6th September 2019

Licensing Sub Committee Members: Cllr Wendy Hinder (Chairman)

Cllr Denise Joy

Cllr Bob Hinder

Legal Advisor in attendance: Robin Harris, Interim Team Leader (Contentious), MKLS

Licensing Officer in attendance: Lorraine Neale

DECISION AND REASONS

The Sub Committee have considered whether interim steps are necessary in this case. They have considered the grounds set out in the application for summary review and the oral representations made by Kent Police and the Licence holder. This included the evidence in the summary review application. Also, conditions offered by the Licence holder as appropriate and proportionate to promote the relevant Licensing objectives were considered.

The Sub-Committee considered the options available to them, in particular the interim step of suspension of the Licence requested by Kent Police. Having heard representations from all parties the Sub-Committee were of the view 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 Sub-Committee considered that there were no conditions that could be imposed as interim steps in lieu of suspension and that the premises should use the suspension period as an opportunity to pause, consider its operating schedule and work with the Police in order to propose an updated operating schedule at the impending full review hearing.

The 'distraction' created by trying to dynamically risk assess and manage events in the interim period would hamper that process and there would be a very real danger that adequate risk assessments for events would be impossible in the short term due to the community tension around this premises.

For all the above reasons the interim step of suspension of the licence pending the full review hearing was appropriate, proportionate and necessary to promote the licensing objectives.

There is no right of appeal against this interim steps decision.

Dated: 6th September 2019

Signed: Signed copy kept on file



LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL

Licensing Act 2003 Sub-Committee Hearing Procedure for Applications for Summary Review of a Premises Licence and Review of Interim Steps

Introduction and Procedure Full Review S53C

i) Introductions

The Chairman will request all those persons participating in the hearing to identify themselves, starting with the:

- Members of the sub-committee (who will, if applicable, declare any personal or prejudicial interests)
- Legal advisor
- Committee clerk
- Maidstone Borough Council officers/managers
- The licence holder/s (and any representative)
- The applicant for review Kent Police (and any representative)
- Each responsible authority (and any representative)
- Each other person (and any spokesperson or representative)

ii) **Procedural Matters**

- **Procedure**

The Chairman will:

- Confirm that all parties are aware of the sub-committee hearing procedure and that each party has a copy of the hearing procedure document.

- **Submissions**

The Chairman will:

- Explain that the sub-committee will allow all parties to put their case fully and make submissions, within a reasonable time frame.

- **Discussion and Questions**

The Chairman will:

- Explain that the sub-committee procedure shall take the form of a discussion led by the sub-committee.
- Explain that the sub-committee will usually permit questions (conducted within a reasonable time frame).

- **Disruptive Behaviour**

The Chairman will:

- Explain that where any person attending the hearing behaves in a disruptive manner, the sub-committee may direct that person to leave the hearing (including temporarily) and thereafter the person may submit to the sub-committee in writing any information which the person would have been entitled to give orally had the person not been required to leave the hearing.

- **Reading of Papers**

The Chairman will:

- Confirm that all sub-committee members have pre-read all the papers and any other documents contained in the report regarding the hearing.

- **Draft Conditions**

The Chairman will:

- Enquire whether draft conditions have been agreed between the licence holder/s and any of the other parties for the sub-committee to consider.

- **Witnesses**

The Chairman will:

- Enquire whether any parties request to have any witnesses give evidence at the hearing; and if so grant the request unless the request is unreasonable.
- Invite the parties, where appropriate, to appoint a spokesperson.

The Hearing

Outline of the Application and Representations

- The Chairman will ask the legal advisor or housing & community services manager to briefly outline the application and all representations regarding the application.

i) The Applicant for Review

- Opening remarks by the applicant for review Kent Police (or their representative).
- Evidence of the applicant for review and any witnesses.
- After each person has given evidence the person may be questioned by the licence holder/s, each responsible authority, other persons and sub-committee members.
- If necessary, the applicant for review (or their representative) may clarify any matter that arose during questioning.

ii) Responsible Authorities (where applicable)

RESPONSIBLE AUTHORITY	Tick if applicable
Trading standards	
Environmental Health	
Child Protection (Social Services)	
Planning	
Fire and Rescue	

- Opening remarks by the officer representing the responsible authority (or their representative).
- Evidence of the responsible authority officer and any witnesses.
- After each person has given evidence the person may be questioned by the applicant for review, the licence holder/s, each other responsible authority, other person and sub-committee member.

- If necessary, the officer (or their representative) may clarify any matter that arose during questioning.

iii) Other Persons

- Opening remarks by the other persons (or spokesperson/s/representative/s).
- Evidence of the other persons and any witnesses.
- After each person has given evidence the person may be questioned by the applicant for review, the licence holder/s, responsible authorities, each other person and sub-committee members.
- If necessary, the other person/s (or spokesperson/representative) may clarify any matter that arose during questioning.

iv) The Licence Holder/s

- Opening remarks by the licence holder/s (or their representative).
- Evidence of the licence holder/s and any witnesses.
- After each person has given evidence the person may be questioned by the applicant for review, each responsible authority, other person and sub-committee member.
- If necessary, the licence holder/s may clarify any matter that arose during questioning.

Closing Speeches

In the following order:

- The applicant for review (Kent Police)**
- Each responsible authority**
- Each other person**
- The licence holder/s**

End of Full Review Hearing

- The Chairman will ask the members of the sub-committee if they have any final questions for any party to the full review hearing.

- The Chairman will ask the legal advisor whether there are any further matters to be raised or resolved before the full review part of the hearing is closed.
- The Chairman will invite the legal advisor to remain with the sub-committee during its deliberations.
- The Chairman will bring the full review part of the hearing to a close and shall declare that the sub-committee will retire, to private session, to consider the application, all relevant representations, evidence, the relevant extracts of Licensing Authority's Statement of Licensing Policy, the relevant extracts of the National Guidance issued under section 182 of The Licensing Act 2003 and the licensing objectives under the Licensing Act 2003.

The Decision on Full Review

The Chairman shall declare in public session:

- The sub-committee's determination on the full review.
- All parties to the hearing will receive a copy of the written Determination Notice regarding the sub-committee's determination.
- All parties may appeal against the sub-committee's decision within 21 days beginning with the day on which the appellant is notified of the Licensing Authority's written determination. Appeals must be lodged with the Magistrates' Court. The decision of the sub-committee on the full review does not take effect until the period for appealing has ended, or if there is an appeal, upon completion of the appeal. Parties should be aware that the Magistrates' Court may make an order with respect to costs on any appeal.

PROCEDURE REVIEW OF INTERIM STEPS S 53 D

Review of interim steps taken by Sub Committee on 6 September 2019, to consider whether the steps are appropriate for the promotion of licensing objectives, consider any relevant representations and determine whether to withdraw or modify the interim steps taken.

The procedural matters from the full review will continue to apply and the order of procedure for the full hearing will be used for review of the interim steps commencing with,

- The Chairman will ask the legal advisor or housing & community services manager to briefly outline all representations regarding the interim steps.

And ending with,

- The Chairman will bring the interim steps review part of the hearing to a close and shall declare that the sub-committee will retire, to private session, to consider the application, all relevant representations, evidence, the

relevant extracts of Licensing Authority's Statement of Licensing Policy, the relevant extracts of the National Guidance issued under section 182 of The Licensing Act 2003 and the licensing objectives under the Licensing Act 2003.

DECISION ON INTERIM STEPS REVIEW

The Chairman shall declare in public session

- The sub-committee's determination on the interim steps review.

- All parties to the hearing will receive a copy of the written Determination Notice regarding the sub-committee's determination.
 - Any interim steps taken under s53D (3) today apply until the end of the period for appealing the s53C decision, (21days beginning with the day on which the appellant is notified of the Licensing Authority's written determination), and if there is an appeal of that decision the time when the appeal is disposed of, or the end of a period determined by the licensing authority, (which may not be longer than either of the above).

The Chief Officer of Police or the licence holder/s of the premises may appeal against the sub-committee's decision on interim steps within 21 days beginning with the day on which the appellant is notified of the Licensing Authority's written determination. Appeals must be lodged with the Magistrates' Court and must be heard within 28 days beginning with the day on which the appellant commenced the appeal. Parties should be aware that the Magistrates' Court may make an order with respect to costs on any appeal.

The Hearing is formally closed.

Agenda Item 10

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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