

MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 SUB COMMITTEE

MINUTES OF THE MEETING HELD ON THURSDAY 1 DECEMBER 2022

Attendees:

Sub-Committee Members:	Councillors English (Chairman), Hinder and Trzebinski
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26. APOLOGIES

There were no apologies.

27. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no substitute members.

28. ELECTION OF CHAIRMAN

RESOLVED: That Councillor English be elected as the Chairman for the duration of the meeting.

29. URGENT ITEMS

There were no urgent items.

30. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members and Officers.

31. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

32. EXEMPT INFORMATION

RESOLVED: That all items be taken in public, unless any Member of the panel wished to specifically refer to the information contained within Item 9 – Exempt Appendices to Item 8, in which case the Sub-Committee would enter into closed session due to the likely disclosure of exempt information.

The Sub-Committee would enter into closed session for its deliberations.

33. APPLICATION FOR REVIEW OF A PREMISES LICENCE - THE SOCIAL CHILL BAR, 95A WEEK STREET, MAIDSTONE, KENT, ME14 1QX

The persons participating at the hearing were identified as follows:

Chairman – Councillor Clive English

Sub-Committee Member – Councillor Bob Hinder

Sub-Committee Member – Councillor Ziggy Trzebinski
Senior Licensing Officer – Lorraine Neale
Legal Advisor – Helen Ward
Democratic Services Officer – Oliviya Parfitt

Applicant's representatives – PC James Williams and James Powell

Respondent – Mr Bulent Turgut
Respondent's representative – Mr Paddy Whur, Woods Whur

Interested Party – Councillor David Naghi

The Sub-Committee adjourned between 10.30 a.m. to 11.15 a.m. to ensure that all Members of the Sub-Committee were able to review the evidence contained within Item 9 – Exempt Appendix 1(1), 1(4), 1(6) & 1(8) to Item 8 – Application for Review of a Premises Licence – The Social Chill Bar, 95a Week Street, Maidstone, Kent, ME14 1QX.

Following the Sub-Committee's return, all parties confirmed that they were aware of the hearings procedure and had read the papers and supplementary information to the review.

The Chairman explained that:

- The Sub-Committee would allow all parties to put their case fully and make full submission within a reasonable time frame.
- The procedure would take the form of a discussion led by the Sub-Committee and they would usually permit cross-examination within a reasonable timeframe.
- Any person attending the hearing who behaved in a disruptive manner may be directed to leave the hearing by the Sub-Committee (including temporarily) after which, such person may submit to the Sub-Committee any information which that person would have been entitled to give orally had the person not been required to leave the meeting. If this was not possible, they may be permitted to speak at the Chairman's invitation.

The Senior Licensing Officer introduced the report and stated that the review application had been submitted by Chief Inspector Mark McLellan, as Kent Police felt that all other avenues of engagement with the respondent had been exhausted. The grounds for the review were the prevention of crime and disorder, public safety and the protection of children from harm.

The Senior Licensing Officer stated that the review application as shown within Appendix 1 to the report outlined the incidents that had occurred at the premises and included the actions taken in response by the respondent and Kent Police. The respondent's representative had submitted a case outline that was shown in appendix 6 to the report, which included reference to the respondent's previous experience in managing other licensed premises.

The applicant's representative was invited to make their case and outlined the following incidents:

- 11 June 2021; A disturbance at the venue had resulted in security staff using a metal baton on patrons within the venue. The incident was the subject of an ongoing criminal investigation.
- 23 June 2021; A disturbance at the venue resulted in the removal of a patron by the police. No further action was taken.
- 16 September 2021; A patron had made threats whilst in possession of glassware. Kent Police attended the venue, and the situation was de-escalated.
- 14 October 2021; A patron was allegedly assaulted by door staff, with concerns expressed over this having taken place due to their sexual identity. The case has since been resolved.
- 24 January 2022; A disturbance had taken place between the venue's patrons and door staff, with various allegations including that a bladed weapon was present.
- 10 April 2022; An incident had taken place within the venue which had led to an individual requiring facial reconstruction. The incident was the subject of an ongoing criminal investigation.
- 6 May 2022; An incident had occurred whereby the venue's staff had had to detain a patron. The police attended the venue, with other patrons acting in a drunk and disorderly manner, with a police vehicle kicked in response and arrests made.

The applicant's representative stated that after 01:00 hours there was a lack of control at the premises and non-compliance to certain conditions of the premises licence. Kent Police had issued various warning letters to the premises in response. The respondent's assistance to Kent Police's investigations was referenced, but it was stated that there had still been a failure on the respondent's part to uphold the licence conditions, including most recently on the 27 September 2022 where patrons entrance into the premises had not been recorded on a digital platform in accordance with relevant licence condition.

In response, the panel asked whether there had been any incidents since May 2022 however this could not be confirmed.

The interested party was invited to make their case, and in doing so referenced their surprise at the incidents that had taken place at the venue, with support expressed for the respondent's personal character as a responsible business owner. It was stated that they had known the respondent for a long time, that they had put their trust in the staff members at the premises at the time of the incidents, but that they had taken a series of rectifying actions since their occurrence.

The respondent's representative was invited to make their case on the respondent's behalf. The timing of the review was questioned, as it had been several months since the last incident at the premises, during which time the respondent had applied for a minor variation to the premises licence and had made several improvements to the premises' running. It was stated that a review

could have taken place earlier, such as from the June 2021 incident which had occurred 17 months ago.

It was stated that since the Covid-19 pandemic, many premises had struggled to find suitable door staff and that it would be unfair for the venue to have to close due to this. In response to concerns expressed by Kent Police, the respondent had removed the previously employed door staff.

Reference was made to the incidents contained within appendix 1 to the report, with the respondent's representative stating that it is common for the police to arrive at night-time economy venues to find that the originally reported issue had been resolved. In relation to the supply of alcohol to underage individuals, the bar staff had believed that the patrons had undergone age verification upon entering the premises, but staff training had since taken place and this had not happened again. The respondent's temporary inability to provide CCTV footage had been caused by a reduction in storage through the installation of additional cameras and had been rectified, alongside the introduction of an electronic attendance list. The previously adopted minor variation to the licence was highlighted as difficult to adhere to.

The respondent's representative stated that the requested actions by the police would be akin to revoking the premises licence and that the respondent would be financially unable to re-open the business after a temporary closure, which was felt to be an unfair and disproportionate request given the actions already taken. The respondent's representative highlighted the relevant guidance to the Sub-Committee in their consideration of the appeal, and the actions available to them.

The respondent addressed the Sub-Committee, stating that they had been operating in Maidstone since 2012. The previous incidents were stated as being outside of the respondent's control at the time, with the subsequent actions taken including the introduction of an app to record visitor attendance, improved CCTV provision and new door staff were reiterated. The respondent stated that they wanted to work positively with Kent Police.

In response, the applicant and their representative highlighted previous instances of non-compliance to the premises licence. In return, the respondent's representative stated that the breach of the on-sales condition was not encouraged or permitted. The respondent stated that the venue's staff undergo regular training sessions, and that the glassware had been replaced with plastic polycarbonate, with the digital attendance platform operational for two months prior to the hearing.

In response to questions from the Sub-Committee, the respondent confirmed that age verification took place before a patron's entry into the premises with an exit barrier preventing them from leaving with drinks with plastic glassware used in outside areas. A member of door staff was permanently stationed at the exit during the opening hours.

The respondent's representative confirmed that following an audit of the premises, the door staff were found to be retaining documents that should have been retained by the respondent as a compliance file and this had since been rectified. There were five personal license holders working at the premises, with the respondent confirming their either he or a family member are usually present during the premises opening hours; the respondent intended to obtain an SIA

licence also. The updated training package provided to staff included training on drug usage, underage sales and licensing generally, and included awareness of intoxication and managing issues non-confrontationally. The training register was signed by staff and kept in a file at the premises.

The applicant's representative was invited to make their closing remarks and reiterated several of the incidents that had taken place. It was stated that whilst the respondent had worked with the police during some of the investigations there had still been failings that had led to breaches of the premises licence. The last entry measures implemented had been evidenced as not being adhered to and had been recorded on paper.

The interested party was invited to make their closing remarks and stated that the Sub-Committee had been informed of the steps taken by the respondent to rectify the issues identified, and that they were a responsible business owner.

The respondent's representative was invited to make their closing remarks and reiterated the actions taken by the respondent, alongside the length of time since the last incident. Given the improvements made, the requests made by the applicant were disproportionate and would prevent the business from being commercially viable in the future. The respondent and their family took care in promoting the licensing objectives. The Sub-Committee were asked to consider the relevant statutory guidance.

The Sub-Committee asked their final questions to all parties present. In response, the applicant's representative stated that they were unable to confirm Kent Police's arrival time and reasonings for two of the incidents without consulting police records. The contributing factors to some of the CCTV excerpts provided as exempt appendices could not be confirmed, however the applicant's representative gave their professional opinion that intoxication and entry refusal had contributed to the incident.

In response to a question on any incidents since May 2022, the Legal Advisor confirmed that no new evidence could be presented to the Sub-Committee given the stage reached of the review. The Legal Advisor questioned the respondent's representative on the plan shown in Appendix 3 to the report in relation to adhering to the on-sales license condition; the latter stated that the further investigation to ascertain which plan was used in granting the premises licence was required with the respondent to be advised as a result. The respondent's representative stated that in their professional view as a lawyer, they did not agree with a suspension of the licence for staff training to take place given the timelines surrounding a suspension's implementation when considered alongside a decision's appeal.

The Chairman advised that the Sub-Committee would retire for deliberation with the legal advisor present. The meeting was adjourned between 12.30 p.m. to 1.15 p.m.

The Sub-Committee returned and the Chairman stated that having considered the evidence provided, representations made and the relevant legislation and guidance, the decision made was to take no further action. The reasons contributing to the decision were outlined in further detail.

It was confirmed that a written decision notice would be provided. Parties were reminded of the right of appeal to the Magistrates Court.

The hearing closed at 1.16 p.m.

RESOLVED: That the Sub-Committee's decision and reasons be provided within the Notice of Determination attached as an Appendix to the minutes.

34. EXEMPT APPENDICES 1(1), 1(4), 1(6), 1(7) & 1(8) TO ITEM 8 - APPLICATION FOR REVIEW OF A PREMISES LICENCE - THE SOCIAL CHILL BAR, 95A WEEK STREET, MAIDSTONE, KENT, ME14 1QX

RESOLVED: That the item be considered alongside Item 8 – Application for Review of a Premises Licence – The Social Chill Bar, 95a Week Street, Maidstone, Kent, ME14 1QX.



LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

NOTICE OF DETERMINATION REVIEW

Applicant: Chief Inspector Mark McLellan on behalf of Kent Police

Premises Social Chill, 95A Week Street, Maidstone, Kent ME14 1QX

Date(s) of hearing: 1 December 2022

Date of determination: 1 December 2022

Committee Members: Councillor Clive English (Chair)
Councillor Bob Hinder
Councillor Ziggy Trzebinski

Legal Advisor in attendance: Helen Ward, Lawyer (Contentious) MKLS

Licensing Officer in attendance: Lorraine Neale

Democratic Services Officer in attendance: Oliviya Parfitt

This was an application for:

Review

of a

Premises Licence

A: Representations, evidence and submissions:

The Sub-Committee considered the representations, evidence and submissions of the following parties:

Applicant

Name: Kent Police, PC James Williams, James Powell

Legal or other representative: None

Responsible Authorities

None

Other Persons

Cllr David Naghi

Premises Licence Holder

Mr Bulent Turgut

Legal or other representative: Paddy Whur, Woods Whur

B: Consideration of the Licensing Act 2003, the Guidance under s. 182 of the Act and the Statement of Licensing Policy of Maidstone Borough Council

The Sub-Committee has taken into account specifically the following provisions of the Licensing Act 2003 and the Regulations thereto:

Sections 51 - 53

The Sub-Committee has taken into account in particular the following provisions of the Guidance under section 182 of the Act:

Chapter 2 which relates to the licensing objectives
Chapter 10 which relates to conditions attached to licences;
Chapter 11 which relates to reviews.

The Sub-Committee has taken into account its Statement of Licensing Policy, in particular:

Section 3, relating to licensing authority policy considerations

Section 14, relating to reviews of premises licences
Section 16, relating to hearings
Section 17, relating to licence conditions

The Sub-Committee has decided to depart from the guidance under section 182 of the Act and or the statement of licensing policy for the following reasons:

Paragraphs and reasons (state in full):

N/A

C: Determination:

The Sub-Committee has decided:

- To take no action in respect of the premises licence. However, the Licensing Sub Committee note that the situation regarding consumption of alcoholic drinks off the premises must be resolved and welcomed the comments from the premises licence holder that steps would be taken in this regard.

Reasons for determination, considering each of the licensing objectives in turn:

■ **Prevention of Crime and Disorder**

Reasons (state in full):

The Licensing Sub Committee considered the evidence presented prior to and at the hearing in respect of incidents that had occurred at the premises. The Licensing Sub Committee recognised the seriousness of the incidents however they noted that no incidents had taken place since May 2022 and the premises licence holder had put in a number of measures since the incidents, including updates to the CCTV, a new door supervisor team and updated staff training measures. The Licensing Sub Committee heard evidence of weaknesses in the premises management and response to the incidents when they occurred however they were reassured by the premises licence holder that the additional steps taken would address previous failings. They recognised that the premises licence holder had undertaken a full licensing compliance audit and accepted credible evidence provided regarding an improvement to supervision and management training.

The Licensing Sub Committee noted that there were deficiencies in record keeping in particular in respect of the log book, but steps were being taken to rectify this, including by way of digitising the records on an app.

There was some discussion about off sales and the licence plans. The external area of the premises is not included in the licence plans and sales of alcohol are permitted for consumption on the premises only. The premises licence holder's representative made submissions that the plans were not licensing compliant and the premises licence holder will take steps to deal with this.

The Licensing Sub Committee considered the Police request to curtail the permitted hours. They noted the premises licence holder's concerns that this would be a de facto revocation of the premises licence due to the financial implications. The Sub Committee recognised that the promotion of the licensing objectives was the paramount consideration and they did not accept that the evidence provided was sufficient to justify any intervention of the hours. In particular, it was noted that the incidents themselves were some time ago and were not sufficiently linked to the time permitted for the sale of alcohol

The Licensing Sub Committee considered a period of suspension to allow for training however they felt that as improved training had already been put into place by the premises licence holder, no further steps were considered appropriate.

The Licensing Sub Committee considered the last entry condition but again did not feel that the evidence sufficiently justified any intervention in respect of this condition.

The Licensing Sub Committee considered all the existing premises licence conditions, including those relating to CCTV and staff training, and felt that no further steps were considered appropriate.

■ **Public Safety**

Reasons (state in full):

There was no evidence put forward in respect of public safety over that identified in the review application and the Licensing Sub Committee did not consider that any steps were required to ensure the promotion of this licensing objective.

■ **Prevention of public nuisance**

Reasons (state in full):

There was no evidence put forward in respect of the prevention of public nuisance and the Licensing Sub Committee did not consider that any steps were required to ensure the promotion of this licensing objective.

■ **Protection of children from harm**

Reasons (state in full):

In respect of the concerns relating to underage persons on the premises, the Licensing Sub Committee believed that the evidence for this was limited and the incident referred to in the review application had been dealt with appropriately by way of a contemporaneous warning from the police. No further steps were considered appropriate in respect of this licensing objective.

D: Appeal

Entitlements to appeal for parties aggrieved by the decisions of the Licensing Authority are set out in Schedule 5 to the Licensing Act 2003.

An appeal has to be commenced by the giving of a notice of appeal by the appellant to the magistrates' court within a period of 21 days beginning on the day on which the appellant was notified of the full written decision to be appealed against. Parties should be aware that the Magistrates' Court may make an Order as to costs in any Appeal.

PRINT NAME (CHAIR):

Signed [Chair]:

A copy of the original document is held on file

Date: