

**MAIDSTONE BOROUGH COUNCIL**

**LICENSING ACT 2003 SUB COMMITTEE**

**MINUTES OF THE MEETING HELD ON MONDAY 29 APRIL 2024**

**Attendees:**

<b>Committee Members:</b>	<b>Councillors Garten (Chairman), Joy and Trzebinski</b>
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43. APOLOGIES FOR ABSENCE

There were no apologies.

44. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

45. ELECTION OF CHAIRMAN

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

46. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

47. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

48. EXEMPT ITEMS

**RESOLVED:** That all items be taken in public, unless any Member of the panel wished to specifically refer to the information contained within Item 8 – Exempt Appendices to Item 7 – Application for Review of a Premises Licence under the Licensing Act 2003 for the Zoo, 10-11 Market Buildings, Maidstone, Kent, ME14 1HP, in which case the Sub-Committee would enter into closed session due to the likely disclosure of exempt information.

49. APPLICATION FOR REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR THE ZOO, 10 - 11 MARKET BUILDINGS, MAIDSTONE, KENT, ME14 1HP

The persons participating in the hearing were identified as follows:

1. Chairman – Councillor Garten
2. Sub-Committee Members – Councillors Joy and Trzebinski
3. Senior Licensing Officer – Lorraine Neale

4. Legal Advisor – Helen Ward
5. Democratic Services Officer – Jordan Ifield
6. Representative of the Applicant – Mark Davies
7. The Applicant – PC James Williams
8. Representative of the Licence Holder – Sarah Clover
9. The Licence Holder – Christopher Dyer
10. Witness for the Licence Holder/Interested Party – Councillor Gordon Newton
11. Witness for the Licence Holder/Interested Party – Karl Winham
12. Witness for the Licence Holder/Interested Party – Jason Halle
13. Witness for the Licence Holder – Jack Steven
14. Interested Party – Victoria Smith
15. Interested Party – Robert Bearup

The Sub-Committee Members confirmed that they had read the papers regarding the hearing.

The Chairman explained that:

- The Sub-Committee would allow all parties to put their case fully and make full submissions 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 Kent Police had applied for a review of The Zoo's licence on the grounds of prevention of crime and disorder, public safety and preventions of public nuisance. References were made to the review application in Appendix 1 of the report, the current premise licence in Appendix 3 of the report, and the public consultation responses in Appendix 5 of the report. It was stated that the Applicant was requesting that the Sub-Committee; reduce the terminal hour for all licensed activities to 00:00 a.m., or reduce the terminal hour for the sale of alcohol to 00:00 a.m. and regulated entertainment to 1:00 a.m.

The Representative of the Applicant made their opening statement and stated that Kent Police had concerns about the premises regarding crime and disorder. It was stated that Kent Police had attempted efforts to reduce crime and disorder at the premises but these had been unsuccessful and that a hearing was requested to address this.

The Representative of the Applicant outlined the following incidents in the police report:

- Appendix 1; A Marshal was responsible for striking a patron while removing multiple patrons from the premises. The patron was left unconscious and needed medical attention;
- Appendix 2; A patron was allegedly removed with excessive force by a Security Industry Authority (SIA) door staff member. The incident was not recorded in the premises log book and a statement from another SIA doorman at the incident was recorded over a year after the incident. No further action was taken by Kent Police;
- Appendix 3; A group of patrons were fighting with Marshals and SIA door staff at the premises at 3:10 a.m. Kent Police did not attend the incident initially, but Police Officers were called to a disturbance later in the morning that was connected to the incident. No further action was taken by Kent Police;
- Appendix 4; A group of patrons was ejected from the premises by SIA door staff, and a fight subsequently occurred with two Police Officers who were on patrol outside the venue. A promoter at the premises was allegedly involved and a public order offence was recorded. No further action was taken by Kent Police;
- Appendix 5; the Licence Holder was issued a Breach of Warning letter which included allegations that he had breached the conditions of the premises licence. This included allegations that he had not attended a sufficient number of Night Time Economy Forum meetings with Kent Police, that a SIA door staff member had not been wearing a high visibility armband during an incident, and that patrons had been allowed re-entry after 3am;
- Appendix 7; A patron was bitten by another patron, and the patron responsible was ejected from the premises. After the incident the Applicant held a meeting with the Licence Holder over the number of calls to the Police regarding incidents at the venue, but no further action was taken;
- Appendix 8; A promoter working at the premises chased a patron from the venue to a bus shelter near the premises, where the promoter subsequently assaulted the patron. An SIA door staff member at the premises had chased both individuals and attempted to protect the patron at the bus shelter. The promoter had since been convicted for assault;
- Appendix 9; A member of a group of ejected patrons attacked a Marshal outside the venue. Both fell to the floor and the Marshal restrained the patron on the floor where another Marshal allegedly kicked the patron. The Marshal accused of kicking the patron was sacked from their position. The Applicant contacted the Licence Holder regarding the use of Marshals at the

premises and a report of patrons using nitrous oxide balloons in the High Street;

- Appendix 9.1; Door staff at the premises were assaulted at the premises at 3:00 a.m. and a patron was detained at the venue. Police attended the premises but door staff had released the patron before their arrival. In response to questions the Applicant stated that the Police response time to 999 calls varied on resourcing levels and the urgency of a situation;
- Appendix 9.2; A group of patrons was ejected from the premises due to causing issues, and a member of the patrons pushed themselves away from staff which caused him to trip and injure their head. No further action was taken;
- Appendix 9.3; Maidstone CCTV Control witnessed a group of aggressive patrons at the premises at 4:00 a.m. The group moved away from the premises and monitored, but at 4:06 a.m. Maidstone CCTV Control contacted Kent Police about a disturbance involving the group at the premises. The group dispersed without intervention;
- Appendix 9.4; The premises contacted Maidstone CCTV Control to ask for Police attendance at 2:58 a.m. after a patron attacked door staff. The premises was advised to call 999 but there was no record of further Police attendance. At 4:04 a.m. Maidstone CCTV Control reported a large fight involving 15 persons at the premises. Police attended the premises and upon arrival the persons stopped fighting and dispersed;

In response to the cases outlined, the Representative of the Licence Holder stated that the Licence Holder had agreed to implement seven additional conditions in 2023 to mitigate against concerns raised by Kent Police regarding anti-social behaviour. The following incidents in the Police report were addressed:

- In Appendix 1; Both of the Marshalls involved in the incident were removed from the premises and arrested. The Street Marshall responsible was prosecuted for Actual Bodily Harm (ABH) and received a 24 month community order. The premises had not employed a Marshal since additional conditions were implemented in 2023 and it was emphasised premises staff were not being obstructive during the incident.
- In Appendix 2; Kent Police did not attend the incident, and the Licence Holder had supplied the Sub-Committee CCTV evidence which contradicted the account of the patron claiming they were unconscious during the incident. The patron in the incident did not support prosecution and distanced themselves from Kent Police enquiries. In response to questions, it was confirmed the premises could provide its log book if requested by the Sub-Committee but it was not requested for the hearing;
- In Appendix 3; Kent Police did not take further action over the incident, and a witness statement had been provided by an SIA door staff member. Patrons who were recorded as intoxicated at the premises could have been consuming alcohol before reaching the premises. It was highlighted that the premises had recorded 11 patrons being denied entry, and that the presence of SIA door staff increased the amount of security in Maidstone town centre;

- In Appendix 4; The patrons ejected from the premises were removed because of offensive language and no victims were identified by Kent Police during the incident;
- In Appendix 5; It was clarified that Night Time Economy Forum meetings had been regularly cancelled preventing the Licence Holder from attending, that the SIA door staff member accused of not wearing a high visibility armband had just started a shift when an incident occurred, and that the licensing conditions allowed for existing patrons to re-enter after 3:00 a.m.;
- In Appendix 7; The perpetrator had returned to the premises several days after the incident, but was refused entry and premises staff took a photo of their ID. In a meeting after the incident, the Applicant asked the Licence Holder to use a Police radio more frequently for similar incidents;
- In Appendix 8; The actions of the promoter were unjustifiable, but they were acting independently at the point of violence after they were verbally provoked by the patron. The promoter was banned from the premises after the incident. The premises' licensing responsibility was to mitigate against the incident, and an SIA doorman at the premises attempted to protect the attacked patron;
- In Appendix 9; The door staff were successful at removing a group of rejected patrons but disputed that the CCTV showed a Marshal kicking a patron but was kicking an object on the floor. It was highlighted that the Marshal was removed from their position with immediate effect after the incident and that there was no connection between the patrons in the High Street using nitrous oxide balloons and the premises;
- In Appendix 9.1; There were limits to the premises detaining patrons until Police Officers arrive, and in one incident the premises detained a patron for four and a half hours. It was highlighted that SIA door staff do not have the same powers as Police Officers to detain patrons;
- In Appendix 9.2; The patron injured in the incident had tripped over after pushing a staff member which caused the injury;
- In Appendix 9.3; The premises reported a group of patrons being aggressive to door staff to Maidstone CCTV Control but were not allowed in the premises. The patrons walked away from the premises and Police Officers did not attend;
- In Appendix 9.4; The patron attacking door staff had been denied entry from the premises.

In a further response to the incidents outlined in the Police report, the Licence Holder explained that:

- He had received an email from the Applicant in June 2023 requesting information from the SIA regarding the usage of Marshals in the town centre as his knowledge was insufficient;

- It was difficult for premises staff to define poor behaviour from patrons as there was not a universal definition. However, there were warning signs such as slurred speech and aggressiveness, which staff would attempt to stop escalating. Door staff would assess if patrons were intoxicated at entry, but patrons would frequently come to the premises after consuming alcohol at other establishments;
- Attendance at the Night Time Economy Forum meetings with Kent Police had been very poor from multiple stakeholders and had been cancelled on multiple occasions, by both Kent Police and stakeholders. In response to this, the Licence Holder had established a venue led Pubwatch scheme, which included 12 town centre venues and had held two meetings.
- In Appendix 8; The promoter was banned from the premises after the incident, but due to a breakdown of communication with management, the promoter did work a shift at the premises after they were banned. The promoter has since been reminded they are prohibited from returning. In response to questions, it was confirmed that the premises kept a list of prohibited patrons and staff, and that promoters worked on an ad-hoc basis on Friday and Saturday nights.

Councillor Gordon Newton, Witness for the Licence Holder and Interested Party, was invited to make their case, and stated that the premises held a night for disabled patrons called Gems and that it was a safe space for disabled patrons that should be retained.

Karl Wenham, Witness for the Licence Holder and Interested Party, was invited to make their case, and stated that as the organiser of Gems, the premises had been a safe venue to host the event. It was highlighted that during eight years at the premises, there had been one incident with Kent Police where a patron had dressed inappropriately at a themed night.

Jason Halle, Witness for the Licence Holder and Interested Party, was invited to make their case, and stated that as a patron at Gems, he felt welcome at the premises. It was emphasised that staff at the venue were friendly and that some patrons now felt comfortable attending other nightclubs due to their positive experiences at Gems.

Robert Bearup, Interested Party, was invited to make their case, and claimed as a door staff member at the premises, that anti-social behaviour near the venue was due to a lack of a Police presence. It was stated that there were long police response times to incidents and highlighted a recent incident where the premises had rejected a group of patrons and handed them to Police Officers. The group were subsequently released and attempted to re-enter the premises.

In response to questions the Interested Party stated that the area next to the premises would be blocked off during an incident to prevent members of the public from walking near the incident.

Victoria Smith, Interested Party, was invited to make their case, and stated that as a patron of the Zoo Bar, she had always felt safe at the premises. Door staff at the premises were recognised as welcoming and professional, and that if patrons were refused entry, they were strong enough to prevent forced entry.

In response to questions the Licence Holder stated that the premises had hosted Gems for eight years and occurred every two weeks. On average 150 patrons would attend each night and the event was not held for business interests, but for the benefit of the community.

After requests from the Representatives of the Applicant and Licence Holder, the Chairman advised that the Sub-Committee would adjourn to allow negotiations between the parties to form a mutual agreement. The meeting was adjourned between 2:45 p.m. to 3:17 p.m.

The Sub-Committee returned and the Representatives of the Applicant and Licence Holder stated that a provisional agreement was still being negotiated between the Licence Holder and the Applicant.

The Chairman advised that the Sub-Committee would adjourn to allow negotiations to continue between the Applicant and Licence Holder to form a mutual agreement. The meeting was adjourned between 3:28 p.m. to 3:50 p.m.

The Sub-Committee returned and the Representative of the Licence Holder stated that a mutual agreement had been reached between the Licence Holder and the Applicant. It was proposed to issue the Licence Holder a warning and would include further amendments to its licensing conditions as detailed in the Decision.

In response to questions, the Representative of the Applicant stated that 3:00 a.m. was considered an appropriate time by Kent Police to stop entry to the premises as it would reduce the chances of incidents occurring after that time.

The Chairman advised that the Sub-Committee would retire for deliberation with the legal advisor present. The meeting was adjourned between 4:13 p.m. to 4:29 p.m.

The Sub-Committee returned and the Chairman stated that having considered the agreement proposed by the parties, the Sub-Committee endorsed the proposal in regard to the conditions and the change of licensed hours, but not to issue the premises a warning. The reasons contributing to the decisions were outlined.

It was confirmed that a written decision notice would be provided.

The hearing closed at 4:31 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.

50. EXEMPT APPENDICES TO ITEM 7 - APPLICATION FOR REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR THE ZOO,10 - 11 MARKET BUILDINGS, MAIDSTONE, KENT, ME14 1HP

**RESOLVED:** That the item be considered alongside Item 7 – Application for Review of a Premises Licence under the Licensing Act 2003 for The Zoo,10 - 11 Market Buildings, Maidstone, Kent, ME14 1HP.



## LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL

### LICENSING ACT 2003 LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

#### NOTICE OF DETERMINATION REVIEW OF PREMISES LICENCE REVIEW SECTION 52 LICENSING ACT 2003

Applicant: Chief Inspector Mark McLellan on behalf of Kent Police

Premises THE ZOO, 10 - 11 Market Buildings, Maidstone, Kent, ME14 1HP

Date(s) of hearing: 29 April 2024

Date of determination: 29 April 2024

Committee Members: Councillor Garten (Chair)  
Councillor Joy  
Councillor Trzebinski

Legal Advisor in attendance: Helen Ward, Lawyer (Contentious), Mid Kent Legal Services

Licensing Officer in attendance: Lorraine Neale

Democratic Services Officer in attendance: Jordan Ifield

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**

PC James Williams on behalf of Kent Police  
Legal or other representative: Mark Davies, 6 Pump Court

**Premises Licence Holder**

Mr Christopher Dyer  
Mr Jack Steven  
Legal or other representative: Sarah Clover, Kings Chambers

**Other Persons / Interested Parties**

Cllr Gordon Newton  
Karl Wenham  
Jason Halle  
Robert Bearup  
Victoria Smith

**Representations considered in the absence of the party at the hearing**

Those contained within the Report provided to the Licensing Sub Committee

**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 Licensing Sub Committee has taken into account the Licensing Act 2003 and the Regulations thereto.

The Licensing Sub Committee has taken into account the Guidance under section 182 of the Act.

The Sub-Committee has taken into account its Statement of Licensing Policy.

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:**

- Endorse the amendments to the premises agreed between the parties, insofar as the amendment of permitted hours for the sale of alcohol and amendments to conditions, as set out in **Part D** of this Decision.

### **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. They considered submissions made by parties at the hearing concerning incidents up until June 2023 and noted that a number of allegations made in the Review were disputed, had not required police presence and, where use of unreasonable force was shown, had resulted in successful prosecutions of those people. They noted that the premises had taken steps to address Police concerns, including adding new conditions in September 2023.

The parties requested a substantial adjournment during the hearing, following which they presented an agreed position to the Licensing Sub Committee regarding proposed amendments to the premises licence, which the Police confirmed would address their concerns. The Licensing Sub Committee welcomes partnership working between licence holders and responsible authorities and were disappointed that it had taken to halfway through the hearing for this to occur. Nonetheless, they were satisfied that the Police were content that these steps would address their concerns and accordingly it was deemed appropriate to promote the licensing objectives to endorse the agreement. The Licensing Sub Committee considered the amendments in detail and were satisfied that these would assist to reduce crime and disorder at the premises.

The Licensing Sub Committee did consider that the agreement represented significantly less of an intervention to the existing premises licence than originally been requested by the Police in the Review application. Given the parties had reached agreement, there was no further scrutiny or submissions of incidents beyond June 2023. On that basis the Licensing Sub Committee did not feel that any further intervention or enforcement was appropriate and proportionate to promote the licensing objectives.

#### **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 written evidence for this was limited and no further submissions were made at the hearing. No further steps were considered appropriate in respect of this licensing objective.

**D: Amendments to Premises Licence following Determination**

The Sale of Alcohol shall be limited to 09:00 to 06:30, seven days a week.

The following conditions of the Licence are amended as follows:

1. The condition providing:

“A representative of the Premises Licence Holder will actively participate in the Nite Net radio system and will also be a member of the Night Time Economy Forum attending on average 4 meetings a year and ensuring that a record is kept to establish that those minutes have been read and as necessary actioned.”

Shall be amended to:

“A representative of the Premises Licence Holder will actively participate in the Nite Net radio system.”

2. The condition providing:

“There will be no new entries to the venue after 3am, excluding those that have been in the venue earlier.”

Shall be amended to:

“There will be no entries to patrons of the venue after 3am.”

3. The condition providing:

“All security staff will display their name badges by way of a reflective armband.”

Shall be replaced by:

“All security staff will be clearly visibly identifiable and display their SIA licence card.”

4. Current conditions:

“When door staff are required at least one member of door staff will be on duty by 21.00 hours”

“Further members of door staff will be required to be on duty from 23.00 hours, unless requested to attend earlier by management.”

“To deploy 2 x SIA door supervisors to the High Street 15mins prior to closing, with an additional 4 x SIA door supervisors to support and assist the dispersal process.”

Shall be replaced with:

“Additional deployment of door staff shall be in accordance with a Security Policy that shall be agreed in advance with the police.”

*Note: The Licensing Sub Committee expects the Security Policy to be in place and operational 21 days following the hearing. The existing arrangements are to remain in place until this time.*

5. The condition providing:

“We will operate a cooling down period of 15mins, prior to the end of session, where we will decrease sound levels to create a more calming atmosphere preparing us for close and full dispersal of patrons.”

Shall be amended to:

“A cooling down period of 15mins, prior to the end of session, shall be implemented during which sound levels shall be decreased, and alcohol sales shall cease in order to create a more calming atmosphere preparing for close and full dispersal of patrons.”

## **E: 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.

Signed [Chair]:

Date:

A copy of the original document is held on file