

**Agenda Item No:1**      **1 – Summary of Report**

**Licence Reference**      **17/01684/LAPRE**  
**Report To:**              **LICENSING SUB – COMMITTEE**  
   **(UNDER THE LICENSING ACT 2003)**

**Date:**                      **12<sup>TH</sup> JUNE 2017**

**Report Title:**            **CAPITOL EXPRESS, 11 SNOWDON PARADE, SNOWDON**  
   **AVENUE, MAIDSTONE, KENT, ME14 5NS**

**Application to: Transfer a premises licence under the Licensing Act**  
   **2003**

**Report Author:**        **Lorraine Neale**

**Summary:**                1. The Applicant – Snowden Food Store Limited

   2. Type of authorisation applied for: To transfer a premises licence under  
   the Licensing Act 2003. (Appendix A)

   3. Grounds of police objection: Kent police have no confidence that the  
   first licensing objective of crime and disorder will be promoted if this  
   transfer is allowed. The premises have previously failed 2 test  
   purchases in the last 4 years and that this transfer is an attempt to  
   suggest that significant changes have been made to the business in  
   order to negate the necessity for further action. (Appendix B)

**Recommendations:**    **The Committee is asked to determine the application and decide**  
   **whether to transfer the licence.**

**Policy Overview:**        The decision should be made with regard to Home Office Guidance and  
   the Licensing Authority’s Statement of Licensing Policy under the  
   Licensing Act 2003. Where the decision departs from Policy or Guidance  
   the departure must be directed solely at the attainment of the licensing  
   objectives, and that such departure be supported by proper reasons.

**Other Material**            **HUMAN RIGHTS:** In considering this application it is necessary to  
**Implications:**            consider the rights of the applicant.

**Background Papers:**    Licensing Act 2003  
   Home Office Guidance Document issued under section 182 of The  
   Licensing Act 2003  
   Maidstone Borough Council Statement of Licensing Policy

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## Agenda Item No. 1

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**Application to: Transfer a premises licence under the Licensing Act 2003**

### **Purpose of the Report**

1.     The report advises Members of an application to transfer a premises licence under the Licensing Act 2003, made by Snowden Food Store Limited, in respect of the premises Capitol Express, 11 Snowdon Parade, Snowdon Avenue, Maidstone, Kent, ME14 5NS to which a representation has been received from the Kent Police, a copy of which is shown in the appendices at the end of this report.

### **Issue to be decided and options**

Members must, having regard to the application and the police objection notice, decide whether to grant the application or reject the application if members consider it necessary for the promotion of the crime prevention objective to do so.

The relevant statutory provisions are section 42 to 46 inclusive of the Licensing Act 2003.

The Secretary of State's Guidance at paragraphs 8.97 – 8.100 is relevant, particularly paragraphs 8.99 -8.100 which states:

8.99 In exceptional circumstances where the chief officer of police believes the transfer may . The police can object where,undermine the crime prevention objective, the police may object to the transfer, The Home Office (Immigration Enforcement) may object if it considers that granting the transfer would be prejudicial to the prevention of illegal working in a licensed premises, Such objections are expected to be rare and arise because the police or the Home Office (Immigration Enforcement) have evidence that the business or individuals seeking to hold the licence or businesses or individuals linked to such persons, are involved in crime (or disorder) or employing illegal workers,

8.100 Such objections (and therefore such hearings) should only arise in truly exceptional circumstances. If the licensing authority believes that the police or the Home Office (Immigration Enforcement) are using this mechanism to vet transfer applicants routinely and to seek hearings as a fishing expedition to inquire into applicants backgrounds, it is expected that it would raise the matter immediately with the chief officer of police or the Home Office (Immigration Enforcement)

### **Background**

2.     The application to transfer the premises licence is attached at Appendix A.
3.     The objection notice of the police is attached at Appendix B.
4.     **Members are advised that they may only reject the application if members consider it necessary for the promotion of the crime prevention objective to do so.**
5.     The relevant section of **The Guidance issued under section 182 of The Licensing Act 2003 is Chapter 8: paragraphs 8.97 – 8.100**

6. There is no particular relevant chapter within the Licensing Authority's Statement of Licensing Policy.
7. Members of The Licensing Act 2003 – Licensing Sub – Committee are reminded of their duty under section 17 of the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the Licensing Authority's responsibility to co – operate in the reduction of crime and disorder in the Borough.

Section 17 of the Crime and Disorder Act 1998 states:

“Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area”

### **Implications Assessment**

8. The decision should be made with regard to the Home Office Guidance. Members should be aware that if such a departure is made the risk of appeal / challenge is increased.
9. **Human Rights:** While all Convention Rights must be considered, those which are of particular relevance to the application are:
  - Article 8 - Right to respect for private and family life
  - Article 1 of the First Protocol - Protection of Property
  - Article 6(1)- Right to Fair Hearing
  - Article 10 – Freedom of Expression

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

### **Conclusion**

10. Members must ensure that the application is considered on its merits, as well as against the relevant guidance, policy and statutory framework.

### **List of Appendices**

11. Appendix A Application Form
- Appendix B Police objection notice
- Appendix C Premise Licence (amended)
- Appendix D Plan of the Premises
- Appendix E Plan of the area
- Appendix F Human Rights Articles
- Appendix G Order of Proceedings

### **Appeal**

12. **The applicant or the Chief Officer of Police may appeal the Licensing Act 2003 Sub Committee's decision within 21 days beginning with the day on which the Appellant is notified. Allany appeals must be lodged with the Magistrates' Court. Parties should be aware that they may incur an Adverse Costs Order should by bring an appeal.**

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