

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

**Licence Reference** 23/00670/REVIEW  
**Report To:** LICENSING SUB – COMMITTEE  
(UNDER THE LICENSING ACT 2003)

**Date:** 24<sup>th</sup> MARCH 2023

**Report Title:** KINGS HEAD, HEADCORN ROAD, GRAFTY GREEN, MAIDSTONE, KENT,  
ME17 2AN  
Application for Review of a Premises Licence

**Report Author:** Lorraine Neale

This report is classified as public, with an exempt appendix. The Appendix is referenced as appendix 8 to this report, This appendix contains exempt information as classified in paragraph/s 1, 2 and 7 to Part 1 of Schedule 12A to the Local Government Act 1972, in that they contain information relating to

- 1 - Information relating to any individual.
- 2 - Information which is likely to reveal the identity of an individual.
- 7 - Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. The public interest in maintaining this exemption outweighs the public interest in their disclosure due to the nature of the information provided.

**Summary:** To summarise the Police's reasons for bringing about this review application of the premises licence for the Kings Head. Kent Police believe the premises represents a serious and real danger to the public if they are allowed to continue operating unchecked.

This follows on from a search of the premises on Wednesday 8<sup>th</sup> February 2023, carried out under an executed search warrant acting on intelligence received.

During the search weapons, ammunition and drugs were found in various places on the premises, the detail can be found in the application for review attached as Appendix 1.

The Police believe that the location of the weapons quite clearly indicated that the licenceholders were aware of their presence on the premises and permitted them to stay on site. This leads to concerns to their intended use or need and the serious and real danger they pose to the public.

Kent Police have serious concern in the managements ability to run a safe premises because of the serious nature of weapons being present in the bar and so seek revocation of the licence and the removal of the designated premises supervisor.

**Affected Wards:** Headcorn Ward

**Recommendations** : **The Committee is asked to determine the application and decide whether to take such steps as members consider appropriate for the promotion of the licensing objectives.**

**Policy Overview:** The decision should be made with regard to the Secretary of State's 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  
Implications:**

**HUMAN RIGHTS:** In considering this application it is **appropriate** to consider the rights of both the licence holder and the applicant together with other parties, such as “**responsible authorities**” and/or “**interested parties**” (objectors). The hearing procedure for reviewing premises licences has been formulated to ensure a fair hearing for all parties.

**LEGAL:** Under the Licensing Act 2003 the **Licensing Authority** has a duty to exercise licensing control of relevant premises.

**Background  
Papers:**

Licensing Act 2003  
Home Office Guidance Document issued under section 182 of The Licensing Act 2003 as amended  
Maidstone Borough Council Statement of Licensing Policy

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## **Agenda Item No. 1**

**Report Title:               KINGS HEAD, HEADCORN ROAD, GRAFTY GREEN, MAIDSTONE,  
KENT, ME17 2AN**

### **Application for Review of a Premises Licence**

#### **Purpose of the Report**

The report advises Members of an application for the review of a premises licence, brought by Chief Inspector McLellan on behalf of Kent Police in respect of the premises Kings Head, Headcorn Road, Grafty Green, Maidstone, Kent, ME17 2AN (Appendix 1)

#### **Issue to be Decided and Options**

1. Members must, having regard to the application and any relevant representations, take such steps mentioned below as members consider appropriate for the promotion of the licensing objectives.
2. The steps are:
  - To modify the conditions of the licence (including for a period not exceeding 3 months);
  - To exclude a licensable activity from the scope of the licence (including for a period not exceeding 3 months);
  - To remove the designated premises supervisor;
  - To suspend the licence for a period not exceeding 3 months;
  - To revoke the licence.
  - To issue a warning or caution.
  - To take no action.

#### **Background**

3. The relevant statutory provisions are sections 51 to 53 inclusive of the Licensing Act 2003. the Licensing Objectives are as follows:
  - The prevention of crime and disorder;
  - Public Safety;

- The prevention of public nuisance; and
  - The protection of children from harm
4. The current premises licence was granted on 9<sup>th</sup> April 2021 a copy is attached as Appendix 2.
  5. The application has been correctly advertised with a notice displayed on the premises and at the Council offices for the required period.
  6. The applicant is requesting that the Sub-Committee:-
    - 1) Revoke the licence.
    - 2) Remove the current Designated Premises Supervisor
  7. Members are advised that they may only modify premises licences if it is **appropriate to promote the licensing objectives**.
  8. Relevant sections of **The Guidance issued under section 182 of The Licensing Act 2003;**

**Chapter 2 Licensing Objectives –Para 2.1 to 2.6 crime and disorder, para 2.7 to 2.14 public safety, para 2.15 – 2. 21 public nuisance and para 2.22 to 2.32 children from harm.**

**Chapter 10 Conditions attached to Premises Licences**

**Chapter 11 Reviews**
  9. Relevant policy statements **contained in The Licensing Authority’s Statement of Licensing Policy (Jan 2021);**

**CONDITIONS TO PROMOTE THE PREVENTION OF CRIME AND DISORDER.**

- 17.10 Under the Act the Licensing Authority has a duty to promote the licensing objectives, and, a further duty under the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the borough.
- 17.11 Wholesale of alcohol. Since 1 April 2017, businesses which sell alcohol (for example, retailers of alcohol and trade buyers) need to ensure that the UK wholesalers that they buy alcohol from have been approved by HMRC under the Alcohol Wholesaler Registration Scheme (AWRS). They will need to check their wholesalers Unique Registration Number (URN) against the HMRC online database. This is an ongoing obligation and if a business is found to have bought alcohol from an unapproved wholesaler, they may be liable to a penalty or could even face a criminal prosecution and their alcohol stock may be seized. Any trader who buys alcohol from a wholesaler for onward sale to the general public (known as a ‘trade buyer’) does not need to register unless they sell alcohol to other businesses.
- 17.12 Examples of trade buyers would be pubs, clubs, restaurants, cafes, retailers and hotels. However, they will need to check that the wholesaler they purchase alcohol from is registered with HMRC.
- 17.13 The applicant will be expected to detail in their operating schedule how they will prevent crime and disorder on and close to the premises. Such detail should reflect the licensable activities on offer, location and character of the area, the nature of the premises use and the range of customers likely to use the premises.

These may include, but are not limited to, the following:

- Prevention of disorderly conduct and anti-social behaviour
- Prevention of underage drinking
- Prevention of sales of alcohol to intoxicated customers
- Prevention of drunkenness both on and in the vicinity of the premises
- Prevention of drug use and drug dealing
- Restriction to responsible drinks promotions
- Use of safety glass
- Inclusion of a wind-down time following alcohol sales period
- Adequate seating to discourage “vertical drinking”
- The offer of food and snacks or other entertainment or occupation to discourage persistent drinking

17.14 In busier premises the Licensing Authority would usually expect to see a short (e.g.30 mins) ‘wind down’ or ‘drinking up’ period allowed for after the cessation time of entertainment and alcohol sales as this is effective in assisting in a reduction in noise and exuberance of customers before leaving the premises.

17.15 Applicants will be expected to seek advice from the Police and the Licensing Authority will give appropriate weight to requests by the Police for premises to be protected by SIA registered door staff subject to the provision of relevant evidence. Where the Licensing Authority determines after consultation with the police that a premises is one that warrants additional security and monitoring it would expect applicants to include the provision of SIA approved door staff at the premises at appropriate times. Relevant premises are usually those used mainly for drinking alcohol, have later opening hours and are situated within the Town Centre night time economy area.

17.16 Where appropriate, applicants for licences in the Town Centre areas providing mainly alcohol, music and dancing would be expected to consider inclusion of a provision of safety glasses to prevent a risk of injury on the rare occasion that a glass may be used as a weapon.

17.17 The use of CCTV should be considered where appropriate or on the advice and recommendations of the Police and to a quality and standard approved by the Police for evidential purposes. Licensees will be expected to fully comply with the requirements of the Information Commissioners Office and the Data Protection Act 1998 in respect of any surveillance equipment installed at a premises.

17.18 In any application resulting in hearing the sub-committee will consider each application on its individual merits and determine the imposition of conditions that are appropriate to promotion of the licensing objectives.

#### **CONDITIONS TO PROMOTE PUBLIC SAFETY.**

17.19 The applicant will be expected to show how the physical safety of persons attending the premises will be protected and to offer any appropriate steps in the operating schedule to promote this.

17.20 Such steps will not replace the statutory obligation on the applicant to comply with all relevant legislation under the Health and Safety at Work etc. Act 1973 or under the Regulatory Reform (Fire Safety) Order 2004.

17.21 Applicants will be expected to have carried out the necessary risk assessments to ensure safe occupancy levels for the premises. Where a representation from the Fire Authority

suggests that for the promotion of the Public Safety objective a maximum occupancy should be applied, the Licensing Authority will consider adding such a limit as a licence condition.

Where appropriate an operating schedule should specify occupancy limits for the following types of licensed premises:

- (i) High Volume Vertical Drinking e.g. premises that provide mainly stand up drinking facilities with limited seating/table space and the primary activity is the sale of alcohol
- (ii) Nightclubs
- (iii) Cinemas
- (iv) Theatres
- (v) Other premises where regulated entertainment is likely to attract a large number of people.
- (vi) Where conditions of occupancy have arisen due to representations received.

#### **CONDITIONS TO PROMOTE THE PREVENTION OF PUBLIC NUISANCE.**

17.22 The applicant will be expected to detail any appropriate and proportionate steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises.

17.23 The applicant will be expected to demonstrate that they have considered the following and included steps to prevent public nuisance:

- (i) Proximity of local residents to the premises
- (ii) Licensable activities proposed and customer base
- (iii) Hours and nature of operation
- (iv) Risk and Prevention of noise leakage from the premises from equipment, customers and machinery
- (v) Prevention of noise from customers leaving the premises and customer pick up points outside premises and from the Car Park.
- (vi) Availability of public transport to and from the premises
- (vii) Delivery and collection times and locations.
- (viii) Impact of external security or general lighting on residents.
- (ix) History of management of and complaints about the premises.
- (x) Applicant's previous success in preventing Public Nuisance.
- (xi) Outcomes of discussions with the relevant Responsible Authorities.
- (xii) Impact of location, noise and contamination from outside smoking areas on neighbours and other customers
- (xiii) Collection of litter arising from the premises

- 17.24 Steps to prevent public nuisance may include a range of options including noise limiting devices, sound insulation, wind down periods, acoustic lobbies, management of smoking areas etc.
- 17.25 Steps will differ depending on the individual premises and activities and it is for the applicant to ensure that reasonable, effective and appropriate steps are included within the operating schedule.

### **CONDITIONS TO PROMOTE THE PROTECTION OF CHILDREN FROM HARM.**

- 17.26 Applicants will be expected to detail any appropriate and proportionate steps to protect children at the premises from any harm. The Licensing Authority recognises the right of licensees (serving alcohol) to allow accompanied children into their premises. The Licensing Authority would not seek to restrict access by children (above that specified in the Act) unless it is necessary for the prevention of physical, moral or psychological harm.
- 17.27 Steps to protect children from harm must be carefully considered for inclusion where:
- (i) There is entertainment or services of an adult nature provided.
  - (ii) There have been previous convictions for under age sales of alcohol.
  - (iii) There has been a known association with drug taking or dealing.
  - (iv) There is a significant element of gambling on the premises.
  - (v) There is a presumption that children under 18 should not be permitted entry such as to nightclubs (apart from when specific events are held for under 18's).
  - (vi) Outcomes of discussions with relevant Responsible Authorities suggest such steps are applicable.
- 17.28 Nothing in the Licensing Act prevents licensees from excluding children from a licensed premises and no condition can be added to require the admission of children.
- 17.29 Where there are no matters that give rise to concern in respect of children at premises the Licensing Authority would expect to see the relevant box on an application form completed to specify NONE.

### **Implications Assessment**

- 10 The decision should be made with regard to the Home Office Guidance and the Licensing Authority's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from either the Guidance or the policy clear and cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal / challenge is increased.
- 11 **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**

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

- 12 Appendix 1 Application for Review
- Appendix 2 Premises Licence
- Appendix 3 Plan of the premises (to follow)
- Appendix 4 Plan of the area
- Appendix 5 Fire Brigade –Neutral comment
- Appendix 6 Representation - Gosschalks on behalf of EI Group
- Appendix 7 Support Comments x 51
- Appendix 8 Licence holder response to review on behalf of Kings Head
- Appendix 9 Human Rights Article
- Appendix 10 Order of Proceedings

## Appeal

**13. The applicant, any interested party and the licence holder may appeal the Licensing Act 2003 Sub Committee's decision within 21 days beginning with the day on which the Appellant is notified. All any appeals must be lodged with the Magistrates' Court.**

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