

Agenda Item No: 1 – Summary of Report

Licence Reference 24/00761/REVIEW
Report To: LICENSING SUB – COMMITTEE
(UNDER THE LICENSING ACT 2003)

Date: 15^h APRIL 2024

Report Title: THE ZOO, 10 - 11 MARKET BUILDINGS, MAIDSTONE, KENT, ME14 1HP
Application for Review of a Premises Licence

Report Author: Lorraine Neale

Summary: 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

Kent Police have applied for a Review of the Premises Licence Appendix 1 pursuant to s.51 Licensing Act 2003.

Grounds for Review

PREVENTION OF CRIME AND DISORDER
PUBLIC SAFETY
PREVENTION OF PUBLIC NUISANCE

Additional evidence has been provided by the Police in the form of documents (Appendix 8) and CCTV

Affected Wards: High Street 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

Contacts:

Mrs Lorraine Neale at: lorraineneale@maidstone.gov.uk – tel: 01622 602528

Agenda Item No. 1

Report Title: THE ZOO, 10 - 11 MARKET BUILDINGS, MAIDSTONE, KENT, ME14 1HP

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 Kent Police in respect of the premises The Zoo, 10 - 11 Market Buildings, Maidstone, Kent, ME14 1HP (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 venue has held a premise licence since 2nd March 2010, the current premises licence was granted on 22nd September 2023 following a minor variation submitted by the licence holder to add the following conditions to the licence:-

Cooling down period:

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.

Body Worn cameras:

The supply and use of body worn recording devices set to buffering mode and activated to record mode when an incident occurs.

SIA deployment on dispersal:

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.

No New entries:

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

Door Supervisors:

The venue will only use SIA registered supervisors, no marshal's will be used at the venue.

To modify an existing condition from:

We will scan customers on a deemed risk basis from 03:00am. Smokers must remain in the designated smoking area at all times.

To:

We will scan customers on a deemed risk basis until 03:00am. Smokers must remain in the designated smoking area at all times.

A copy of the licence 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) Reduce the terminal hour for all licensable activities to 00:00 or alternatively:-
 - 2) Reduce the terminal hour for alcohol to 00:00 and all regulated entertainment to 01:00.
 - 3) Current conditions at annex 3 remain on the licence.
- 7 There have been 116 comments of support received from:-
 - 1 Chloe Hughes
 - 2 Sophie Elmore
 - 3 Dave Calver
 - 4 Lauren Davies
 - 5 Bill Swift
 - 6 Arnold Sharp
 - 7 Karl Wenham
 - 8 David Cornwall
 - 9 Jay Matthews
 - 10 Daniel Williams
 - 11 Emily Rose
 - 12 Aimee Webb
 - 13 Kieran Empson
 - 14 Megan Welfare
 - 15 Isabel Jenkins
 - 16 Rebecca Davis
 - 17 Lucy Speight
 - 18 Matthew Brooks
 - 19 Ahmet Suncu
 - 20 Amie Freeman
 - 21 Kieron Jenkins
 - 22 Natasha Coulstock
 - 23 Cameron Jolly
 - 24 Kim Baldock
 - 25 Leah Szak
 - 26 Whitney Deuchar

27 David Odunlami
28 Karen Smallwood
29 Twenty Rivers
30 Robert Hunt
31 Samantha Hunt
32 Alex Garnett
33 Rjay Garnety
34 Graham Wood
35 Addam Mathews
36 Michael Macpherson
37 Charlotte Mccallam
38 Jason Halle
39 Jade Gold
40 Victoria Smith
41 Dion McVey
42 Stuart Vine
43 Ekenedilichukwu Edenjoku
44 Quiana Wheatley
45 Helen Osvalds
46 Tasneem Anwar
47 Vasile Cira
48 Matthew James
49 Rebecca graham
50 Nick Osvalds
51 Gareth Evans
52 Tracy Evans
53 Gemma Colyer
54 Joshua Freeman
55 Hayley Wright
56 Catalina Barbu
57 Jacob Pocklington
58 Catherine Drury
59 Mark Iyiola
60 Bahadir Kaya
61 Ismail Acar
62 Daniel Harvey
63 Matt Childs
64 John English
65 Ana Garbur
66 Natalia Tester
67 Diana Hayles
68 Reshi Vadhia
69 Alice Tabingwa
70 Oscar Wady
71 Robert Batten
72 Jake Smith
73 Kieran Gray
74 Jason Atkins
75 Oliver Wilmot
76 Isabella Evans
77 Diwi Banakeng
78 Robert Bearup
79 Jenny Kidd
80 George Harrison

81	Stanley Agabor
82	David Asher
83	Charlotte Johnson
84	Lottie Cole
85	Scott Welfare
86	Tia Bancey
87	Chiedza Kunyeda
88	Kudzai Mukotekwa
89	Lily Liston
90	Alex Adesina
91	Cam Connolly
92	Andrej Lech
93	Sarah lou Jones
94	Emily Fletcher
95	Michael Lam
96	Erika Paltanaviciute
97	Kinga Urbanowska
98	Abbie Joslin
99	Alicia-Leigh Williams
100	Zane Ferrisa
101	Jemma Cornford
102	Amelia Evans
103	Charlie mark Batten
104	Siana Barden
105	Jamieleigh Phillips
106	Katie Epsley
107	Avene Ahmad-Eldridge
108	Shola Ajilore
109	Andres Cardozo
110	Okezi Imara
111	Michael Churchill
112	Wiktoria Pytlinska
113	Rebecca Odunlami
114	Holly Edwards
115	Jack Cummings
116	Gordon Newton

These are attached as Appendix 5

8. Members are advised that they may only modify premises licences if it is appropriate **and proportionate in order to promote the licensing objectives.**

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 and para 2.15 – 2. 21 public nuisance
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 2018 & GDPR 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.

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
- Appendix 4 Plan of the area
- Appendix 5 Other Parties –Support comments x 116
- Appendix 6 Human Rights Article
- Appendix 7 Order of Proceedings
- Appendix 8 Supplementary Disclosure – Part 2

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.

Contact:	Senior Licensing Officer
Email:	lorryneale@maidstone.gov.uk