

<b>Agenda Item No:</b>	<b>1 – Summary of Report</b>
<b>Licence Reference Report To:</b>	<b>MAID0185/LPRM/3989 LICENSING SUB – COMMITTEE (UNDER THE LICENSING ACT 2003)</b>
<b>Date:</b>	<b>22 OCTOBER 2012</b>
<b>Report Title:</b>	<b>BELUGA BAR, 73 BANK STREET, MAIDSTONE, KENT, ME14 1SN</b>  <b>Application for Review of a Premises Licence</b>
<b>Report Author:</b>	<b><u>Lorraine Neale</u></b>
<b>Summary:</b>	<ol style="list-style-type: none"> <li>1. The Applicant for Review – Richard Strawson on behalf of Kent County Council Trading Standards</li> <li>2. Type of application applied for: Review of a Premises Licence.</li> <li>3. Grounds for Review</li> </ol> <p><b><u>PREVENTION OF CRIME AND DISORDER PUBLIC SAFETY:</u></b></p> <p>The licence holders of the Beluga Bar are believed to have failed in the Licensing Act objectives of prevention of crime and disorder and public safety, in that 954 bottles of counterfeit Selekt vodka were found in their possession at the premises</p>
<b>Affected Wards:</b>	High Street
<b>Recommendations:</b>	<b>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.</b>
<b>Policy Overview:</b>	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.
<b>Other Material Implications:</b>	<p><b>HUMAN RIGHTS:</b> In considering this application it is <b>appropriate</b> to consider the rights of both the licenceholder and the applicant together with other parties, such as <b>“responsible authorities” and/or “interested parties”</b> (objectors). The hearing procedure for reviewing premises licences has been formulated to ensure a fair hearing for all parties.</p> <p><b>LEGAL:</b> Under the Licensing Act 2003 the <b>Licensing Authority</b> has a duty to exercise licensing control of relevant premises.</p>
<b>Background Papers:</b>	Licensing Act 2003 DCMS 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: BELUGA BAR, 73 BANK STREET, MAIDSTONE, KENT, ME14 1SN**

### **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 Richard Strawson on behalf of Kent County Council Trading Standards in respect of the premises Beluga Bar, 73 Bank Street, Maidstone, Kent, ME14 1SN

#### **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. KCC Trading Standards have submitted a letter (Appendix B) that they have received from the Police in support of their review application.
5. Trading Standards were made aware of Her Majesty's Revenue and Customs seizure on 18 May 2012 and commenced their investigations from that time. The Beluga Bar has submitted a number of applications during that period which have amended the licence. These licences have been attached for your information
  - a) The original premises licence in existence prior to May 2012 is attached as Appendix C1

- b) Application was made to Vary the DPS to Emir Reka this licence was granted on 5.10.12 and is attached as Appendix C2.
  - c) An application was made to extend the hours of the licensable activities from 3.30am to 4.30am for alcohol and 3.30am–5.00am for all other licensable activities and also the opening hours from 4.00am-5.00am. This licence was granted 17.09.2012 and is attached as C3
  - d) An application for a minor variation was received to add conditions to the licence and this was granted on 19.10.2012, this is the current premises licence and is attached as Appendix C4.
6. The application has been correctly advertised with a notice displayed on the premises and at the Council offices for the required period.
7. The applicant is requesting that the Sub-Committee:-
- 1) Revoke the premise licence.
8. **Members are advised that they may only modify premises licences if it is appropriate to promote the licensing objectives.**
9. Relevant sections of **The Guidance issued under section 182 of The Licensing Act 2003;**
- Chapter 2      Licensing Objectives – para 2.1 to 2.18 crime and disorder and para 2.19 – 2.31 public safety**
  - 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 2008);**

## **20. Prevention of Crime and Disorder**

### **Concerns**

The applicant should consider factors arising from the premises or the activities of their customers within the vicinity of the premises that may impact on the prevention of crime and disorder. These may include:

- Underage drinking
- Drunkenness on premises
- Public drunkenness
- Drugs
- Violent behaviour
- Anti-social behaviour

### **Additional Steps**

The following examples of additional steps are given as examples for applicants to consider in addressing the above concerns in the preparation of their Operating Schedule, having regard to their particular type of premises or activities:-

- Effective and responsible management of premises.
- Training and supervision of staff.
- Adoption of current best practice guidance (some examples are Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit, and other voluntary codes of practice,

including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA).

- Acceptance of accredited 'proof of age' pass cards or 'new type' driving licences with photographs, passports or an official identity card issued by H M Forces.
- Provision of effective CCTV in and around premises.
- Employment of Security Industry Authority licensed door staff. (If two or more are employed there must be at least one male and one female).
- Provision of toughened or plastic glasses.
- Provision of secure deposit boxes for confiscated items ('sin bins').
- Provision of litterbins, security measures, e.g. lighting, outside premises.
- Membership of a Pub Watch scheme.
- The current 'Chill Out Hour' operating at the late night venues in the Borough of Maidstone which is the agreement whereby late night venues cease to sell alcohol yet continue to provide music and dancing for a further hour (at a reduced volume and with the heavy bass beat removed) has proved to be a success in reducing late night crime and disorder.
- Membership of Madsafe (Nite Net).

## **21. The Promotion of Public Safety**

The Licensing Authority wishes to ensure the safety of everyone on licensed premises.

### **Concerns**

#### **Capacity**

Where existing legislation does not provide adequately for the safety of the public, club members or guests, the occupancy capacity for premises and events (to include performers and staff) may be an important factor in promoting public safety. Subject to the requirements of the following paragraph the Licensing Authority will expect the issue of occupancy capacity and adequate controls of the numbers of persons on premises or attending an event to be considered by an applicant when completing an Operating Schedule.

Where a relevant representation is received in respect of capacity the Licensing Authority will consider setting capacity limits in consultation with the Kent and Medway Fire and Rescue Authority for the following premises:

- Nightclubs
- Cinemas
- Theatres
- Other premises where regulated entertainment within the meaning of the Act is being provided.

The Applicant might also consider the following concerns when assessing the appropriate capacity for premises or events in the Maidstone area. These could include:-

- The design and layout of the premises.
- The nature of the premises or event.
- The nature of the licensable activities being provided.
- The provision or removal of temporary structures, such as a stage or furniture.
- The number of staff available to supervise customers both ordinarily and in the event of an emergency.
- The customer profile (e.g. age, disability).
- The attendance by customers whose first language is not English.
- Availability of suitable and sufficient sanitary accommodation.
- The nature and provision of facilities for ventilation.
- The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.

Where capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, the applicant will be expected to consider the

arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.

### **Additional Steps**

The following examples of additional steps are given for applicants to consider in the preparation of their Operating Schedule, having regard to their particular type of premises or activities:-

- Suitable and sufficient risk assessments.
- Effective and responsible management of premises.
- Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons.
- Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons.
- Adoption of best practice guidance.
- Provision of effective CCTV in and around premises.
- Provision of toughened or plastic non disposable glasses/bottles.
- Implementation of crowd management measures.
- Regular testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety.

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 function on, and the need to do all that it reasonably can to prevent, crime and disorder in its area”

### **Implications Assessment**

- 10 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 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 A | Application for Review      |
|    | Appendix B | Police letter of support    |
|    | Appendix C | Copies of Premises Licences |

Appendix D	Plan of the premises
Appendix E	Plan of the area
Appendix F	Human Rights Article
Appendix G	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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