

Licensing Hearing Panel - Sub-Committee of Licensing and Safety Committee- Supplementary agenda No.3

A meeting of the panel will be held on:

Date: Tuesday, 13 March 2018

Time: 9.30am

Venue: Meeting Room 2 - Level 3, Gun Wharf, Dock Road, Chatham
ME4 4TR

Agenda

- 6 Licensing Act 2003 - Application for review of a premises
licence - Cooling Castle Barn, Cooling Castle, Cooling,
Rochester, Kent ME3 8DT (Pages
5 - 12)**

Alternate pages were missing from the Grounds of Review & Supporting Information, which was the first part of Appendix C1 in the main agenda. This item includes the missing pages and replaces pages 25-28 of the main agenda.

- 9 Exclusion of Press and Public - Agenda Item Number 10 (Pages
13 - 14)**

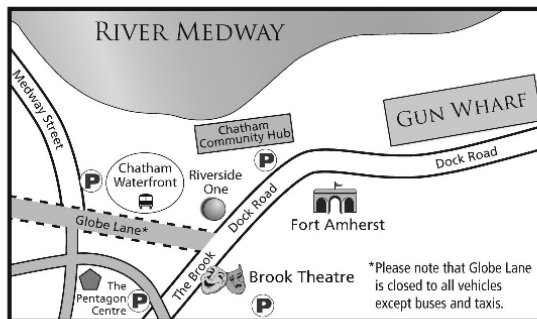
It is recommended that the panel exclude the press and public from the meeting during consideration of Appendix C of agenda item number 10 on the grounds that it is likely that, if members of the public and press were present during consideration of the item, there would be disclosure of exempt information in accordance with Paragraphs 1, 5 and 7 of Part 1 of Schedule 12A to the Local Government Act 1972.

Consideration of interim steps following an application for summary review of the premises licence.

This urgent item is being considered with the agreement of the Chairman of the Licensing and Safety Committee to review a premises licence under Section 53A of the Licensing Act 2003 following a request for an urgent review to be undertaken being received from Kent Police on 12 March 2018. The reason of special circumstances for the urgent meeting being convened is that, in the opinion of Kent Police, the premises are associated with serious crime, serious disorder, or both and they have requested that interim steps to immediately address this matter are investigated. As a result it is necessary for the Licensing Hearing Panel to consider the item as a matter of urgency.

For further information please contact Stephen Platt, Democratic Services Officer on Telephone: 01634 332011 or Email: democratic.services@medway.gov.uk

Date: 12 March 2018



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If you have any questions about this meeting and you want to speak to someone in your own language please ring **01634 335577**

বাংলা	331780	ગુજરાતી	331782	ਪੰਜਾਬੀ	331784	کوردی	331841	اردو	331785	Русский	332374
中文	331781	हिंदी	331783	Polski	332373	একুশফড়	331786	فارسی	331840	Lietuviškai	332372

GUIDELINES FOR LICENSING HEARING PANELS

The chairman will control the proceedings and the following is a guideline for each hearing but may be adjusted if appropriate.

1. The chairman explains the proposed format for the meeting and asks everyone to introduce themselves.
 2. The Licensing Officer briefly outlines the application.
 3. The applicant (or their representative) speaks in support of their application and call any witnesses.
 4. Objectors* ask the applicant (or their representative) and witnesses questions.
 5. The panel asks the applicant (or their representative) and witnesses questions.
 6. Objectors* speak about their representation and call any witnesses.
 7. The applicant (or their representative) asks the objectors questions.
 8. The panel asks questions.
 9. All parties are asked if they wish to add anything further.
 10. The chairman requests everyone to leave the room in order that the panel may reach a decision. The Legal Officer and Democratic Services Officer to the panel will remain.
-
11. Everyone will be invited to return to receive the decision. In the event of complex or lengthy applications, the panel may decide to give its decision at a later date.

*Objectors may include responsible authorities such as the Police, the Fire Brigade, Environmental Health Officers, Development and Building Control Officers, Highway Officers, Trading Standards Officers and local residents. The responsible authorities will be asked to speak first.

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In the matter the review of Cooling Castle Barn
Medway-05-PREM-0543

Grounds of Review & Supporting Information

1. This is an application for a review of the premises licence of Cooling Castle Barn pursuant to s 51 and 177A of the Licensing Act 2003.
2. Cooling Castle Barn is predominately used as a daily wedding party venue that operates almost daily throughout the year with an additional Christmas Party offering and on site overnight accommodation; it seems that there are on average at most no more than twenty rest days throughout the year.
3. The opening hours of the premises are 09:00 – 23:30 Sunday to Thursday and 09:00 – 00:30 Friday and Saturday. Unfortunately the development of additional overnight accommodation at Cooling Castle Barn has the practical effect that the consequences of the operation of the premises and licensable activities continues long after the ‘official’ closing time. The wedding breakfast parties are typically underway by 9am and continue throughout the day; disturbance from the operation of the Cooling Castle Barn thus typically starts from early in the morning (indeed, nearly every morning) until late at night offering no respite.
4. The Barn has the benefit of a premises licence which permits the sale of alcohol from 13:00 – 23:00 on Sundays to Thursdays and 13:00 – 00:00 on Friday and Saturdays; during December this is extended until 01:00 from Wednesdays to Saturday.
5. Contrary to the premises licence, the website confirms that alcohol is sold and supplied to the wedding party in the Moat House from as early as 8am. The website offers ‘... a scrummy breakfast, elevenses, a glass or two of bubbles and the undivided attention of everyone around you.’ The Heritage Barn is, according to the website, open from 11am for friend and family and ‘for guests who are in need of refreshment before they check into their rooms. Or, it is a great place for early guests to sit back, chat to friends and family. Or just sit in the Garden with a long cool drink.’
6. The premises benefits from the deregulation of regulated entertainment and the conditions in relation thereof are likely suspended. Save that recorded music and dancing are permitted until 00:00 on Fridays and Saturdays and that all regulated entertainment is permitted until 01:00 from Wednesday to Saturday throughout December.
7. There are conditions attached to the premises licence, these are either ineffective or effectively ignored by the premises and are in urgent need of review and revision. These include:
 - When regulated entertainment, which generates significant noise, is taking place, doors and windows will be kept shut.
 - Reproduced or live music is to be set at a level so as not to be audible

- at the façade of the nearest residential property.
 - The Designated Premises Supervisor, duty Manager or relevant person should assess noise levels on a regular basis to prevent excessive breakout.
 - No Karaoke will take place on the premises.
 - Outdoor areas will not be used after 23:00 (11pm) on Monday to Sunday.
 - Regulated entertainment will cease at 19:00 (7pm).
 - Deliveries are only to be allowed up to 12:00 (noon).
8. These conditions do not address the actual current operation of the premises which have evolved and intensified in recent years.
 9. Mr & Mrs Holland recognise the benefit of the Barn to the local community and local economy and have benefited themselves from their catering services at their own wedding celebration. Mr and Mrs Holland have also, and continue, to allow the Barn to use their field for wedding photos with the Castle Gates and car parking on the Barn's annual open day. However the operation of any licensed premises must be balanced against the interests of local residents and the wider local community.
 10. Mr & Mrs Holland have been involved in numerous discussions with other local residents concerning the adverse impacts arising from the operation of the Cooling Castle Barn but note the understandable reluctance to make official complaints within such a small community.
 11. For a considerable period of time the Cooling Castle Barn has been a source of anti-social behaviour, nuisance and disorder; disturbance arises, in particular from noise nuisance (caused by entertainment and patrons) and also other forms of nuisance. Typically the sources of concern are the extent of the audibility of the amplified music and in particular the bass frequencies from internal events, noise from people associated with the external use, dispersal and the resident after-hours crowd and the impact caused. This is exacerbated even by "low key" events because of the poor sound insulation of the structure and of the frequency of disturbance results from the almost daily use of the Barn and the external areas – this ensures that there is a constant noise impact generated by the commercial operational use of the Cooling Castle Barn.
 12. Apart from recorded amplified music presented by the in-house DJ examples of live music, all of which have been heard and experience from the external areas, include: bagpipes, steel band, brass band, string quartet. This is all too frequently accompanied by communal *singing* to the pre-recorded 'classic anthems' typically played at weddings and parties. These are quite part from the amplified speeches with accompanied applause and cheers in response.
 13. The adverse impacts from the operation of Cooling Castle Barn have been exacerbated since the construction of the additional overnight accommodation sometime in 2007/08.
 14. Between the 9th – 26th June, 2017 officers of the Medway Council

Environmental protection Team visited the Cooling Castle Barn on nine different dates and on multiple occasions on the majority of those dates where they witnessed noise from amplified and non-amplified music, patrons, vehicles, extractor type fan and air compressors. It was determined by the Environmental Protection team, that the levels of noise from the premises when taking into account the frequency and duration is sufficient to be considered a statutory nuisance and the Council issued a Noise Abatement Notice on the 29th June, 2017 in accordance with section 80 of the Environmental Protection Act 1990.

15. Additionally on two occasions, both in the afternoon, the Environmental Protection team witnessed pungent cooking odour sufficient to constitute a statutory nuisance and issued a further Statutory Notice, also on the 29th June, 2017, in accordance with section 80 of the Environmental Protection Act 1990.
16. A copy of both these notices are attached to this review application.
17. The Holland family and their guests were asked to keep a diary of anti-social behavior, nuisance and disorder coming from the Barn from April to early June to assist with the investigations of the Environmental Protection team. The diary provides a snap shot of the impacts throughout the week, throughout the day from early morning until late at night and into the early hours.
18. Attached is a letter from Mr Holland to Sarah Foster dated 6th June, 2017 with a diary of impacts dated 2nd April – 3rd June, 2017. Additional diary entries have been maintained and are supplied with this application.
19. There have been ongoing discussions with the operators of the Cooling Castle Barn since at least about 2007 when it would seem that the wedding and party business was intensified. The issues consistently raised have been in respect of recorded and live music and amplified speeches from internal areas; live and recorded music, from external areas; noise from patrons either leaving the premises or those that remain on-site continuing their celebrations long after the end permitted activities and opening hours. There has been some sound proofing of the Barn though this has been undermined by what seems to be the purchase and installation of a larger PA system. The unsuitability of the location is further undermined by ineffective supervision and management.
20. The Castle has previously privately commissioned two Noise Impact Assessments by MRL Acoustics. The first, dated January, 2015, was carried out between 12:00 on Monday 8th December until 16:00 on Monday 15th December, 2014. The assessment concluded that ‘every song played in Cooling Castle Barn was clearly audible and identifiable in terms of both music and lyrics. Noise from guests’ voices was clearly audible with some being at very raised levels. The low frequency bass was also very noticeable and every beat in each track was distinguishable from the next’ (para 2.4). The first report concludes that there is a ‘significant adverse impact’ (para 4.2) and that it ‘could be deemed to amount to a Statutory Noise Nuisance under the Environmental Protection Act 1990.’ (para 4.3).

21. The second Noise Impact Assessment, dated October, 2015, was carried out between 12:00 on Saturday 4th July until 10:00 on Sunday 19th July, 2015. It was noted that 'every song played in Cooling Castle Barn was audible at the monitoring location at the façade of the residential dwelling at Cooling castle though the song title and actual lyrics were not clearly indentifiable.' (para 2.4)
22. Furthermore, 'noise from guests' voices was very audible for the majority of the attended survey with some being at very raised levels. It seemed evident that there were large groups of guests outside the barn and congregating on the open area adjacent to the boundary wall with Cooling castle. As the weather during this event was very warm then this is most likely the reason that so many guests were outside for prolonged periods.' (para 2.5). The ongoing observation and recordings by MRL none-the-less demonstrate that the outside noise impact is a factor that causes significant disturbance throughout the year. The distinguishing feature is that there is less live music outside during the winter months but the same number of patrons throughout the year gathering and using the external areas.
23. The second report concluded that 'the low frequency tonal element of the amplified music has been reduced to a noticeable degree ... however, the amplified music was still audible at the façade of the residential dwelling at Cooling Castle.' (para 4.3) Music is only one element of the adverse impacts from the operation of the Cooling Castle Barn and that 'noise from guests' voices outside the barn was resulting in a significant noise impact.' (para 4.4). Again, with the second report concluded that it 'could be deemed to amount to a Statutory Noise Nuisance under the Environmental Protection Act 1990.' (para 4.5).
24. Both these reports are attached to this review application. MRL have continued to make recordings and monitor the disturbances from the premises; a compilation of recordings has been provided by MRL and is attached to this application.
25. The matters identified in December 2014, July 2015 and June 2017 consistently identify anti-social behaviour, nuisance and disorder from Cooling Castle Barn. These independent professional assessments confirm the ongoing nuisance experienced by the Barn's neighbours, a snap shot of which is provided by the recent diary entries from April to early June, 2017.
26. Mr and Mrs Holland acknowledge that through informal discussions with the operators of the Castle Cooling Barn some efforts have been implements in an attempt to mitigate the adverse impacts from the operation of the parties at the Castle Cooling Barn; these have failed to have any significant or lasting effect. Mr and Mrs Holland have personally implemented mitigating measures such as secondary glazing on all the downstairs windows. The management of the Cooling castle Barn are either unable or unwilling to make and maintain the operational changes required in order to effectively promote the licensing objectives.

27. Despite numerous letters, e-mails, texts, calls and meetings with the management the adverse impacts of the operation of Cooling Castle Barn continue to blight the lives of its nearest neighbours and adversely impact on the wider community.
28. The management continue to seek the intensification of their operations, most recently by attempting to remove the condition which prohibits the use of outside areas after 23:00. This demonstrates a clear and patent disregard for the adverse impacts of their operation upon their neighbours and the promotion of their business over the promotion of the licensing objectives.
29. It is with regret that this application is now being made; the operation and attitude of the Cooling Castle Barn leaves no alternative but to seek the formal assistance from the licensing authority.
30. By way of *postscript* the intensification of use at Cooling Castle Barn persists. By application for a variation to the existing premises licence Cooling Castle Barn are now seeking for a late night smoking area for thirty people from 23:00 onwards! Given the ongoing documented concerns and the outstanding Noise Abatement issues this application at this time is astonishing and insensitive.
31. This review is made pursuant to sections 51 and 177A of the Licensing Act 2003 in order to:
 - [1] review the suitability of the current operation in this particular location;
 - [2] review the extent and scope of the premises licence in respect of the licensable activities permitted, the number of internal and external events, the location of events and the days and hours of operation;
 - [3] review the number of internal and external events permitted at the premises including any seasonal variations;
 - [4] review the opening hours of the entire premises to which non-residential patrons are permitted on the premises;
 - [5] review the operating conditions in respect to the activities on the entire premises in respect of each of the buildings and the use of the outdoor areas;
 - [6] review the extent and scope of using the outside areas during and after events, and
 - [7] in particular, the applicants are extremely concerned about the continued use of the outside area.
32. The purpose of this review is to invite the local licensing authority, along with the operator, to review the operation of the Cooling Castle Barn to balance the needs of the small local community as against this expanding commercial operation and provide some respite from its daily operation. Below are *some suggested* conditions to achieve this balance:

Licensable activities and opening:

[1] No licensable activities to be permitted on the premises on any Sunday, Monday, Tuesday or Wednesday.

Use of external areas & smoking area:

[2] There shall be no entertainment or recreational use of the front external area at any time save for access and egress, in particular the front area shall not be used by smokers as a smoking area. The premises licence holder shall monitor the front entrance to ensure that its patrons, guests and staff do not congregate in this area.

[3] The car park area shall not be used for entertainment or recreational uses at any time and in particular it shall not be used by smokers as a smoking area.

[4] The premises licence holder shall designate an area, between the accommodation block and Barn as the designated smoking area. The smoking area shall be monitored, smokers shall not be permitted to take food or drink into the smoking area and there shall be no more than nine [9] smokers in the smoking area at any one time; the smoking area shall be covered by CCTV.

[5] The Barn Green shall not be used for any entertainment (including Live Music and incidental music) or regulated entertainment at any time. The Barn Green shall not be used for any other licensable activities before 11:30 or after 17:30. The setting up of this area is not to commence before 10:30 and must be cleared by 17:30. The Barn Green shall not be used as a smoking area outside of these hours. The premises licence holder shall monitor the Barn Green to ensure that its patrons, guests and staff do not congregate in this area outside of these hours.

[6] There shall be no amplification used in the outside areas.

[7] The premises licence holder shall ensure that a minimum of two stewards monitor all the outside areas from one hour before any event until two hours after the official end of any event save where the accommodation is not being used on these occasions the stewards are to monitor for 45 minutes after the end of any event. These two stewards shall wear Hi-Viz jackets at all times.

Noise Attenuation:

[8] The premises shall appoint a suitably qualified acoustician, whom is at least a Member of the Institute of Acoustics, and that they complete acoustic testing of the Barn and other buildings to objectively quantify the resistance of the building façade to sound to the closest residential premises, and make recommendations for how the sound insulation could be further improved, and sound transmission reduced; should it be found that the noise limits set out below do not allow commercially acceptable levels then the works should be completed to improve the sound insulation as far as possible before the acoustic limiter is set up.

[9] The sound from the sound system that is used for amplifying music shall be controlled by the installation of an acoustic limiting device which does not allow the music over any 5 minute period to exceed the following values, when measured at 1.5m height at 3m from the closest residential: Before 11pm $L_{Aeq,F} \leq 40\text{dB}$, $L_{eq, Fast}$ at

63Hz \leq 52dB $L_{eq, Fast}$ at 125Hz \leq 46dB; After 11pm $L_{A Max, F} \leq$ 40dB, $L_{Aeq, F} \leq$ 30dB, $L_{eq, Fast}$ at 63Hz \leq 45dB $L_{eq, Fast}$ at 125Hz \leq 40dB so that it is barely audible at the façade.

[10] The sound from the sound system that is used for amplifying speech shall be controlled by the acoustic limiting device, over any 5 minute period, to not exceed the following values, when measured at 1.5m height at 3m from the closest residential: Before 11pm $L_{Aeq, F} \leq$ 35dB; $L_{eq, Fast}$ at 500Hz \leq 35dB $L_{eq, Fast}$ at 1 to 8kHz \leq 25dB; not audible after 11pm.

[11] The noise limiter shall be set up by the suitably qualified acoustician and the adjustment port sealed with a tamper proof seal, and a report submitted to the Local Authority to set out and record how this was done.

[12] An annual check by a suitably qualified acoustician should be completed every year to confirm that the operational levels have not altered, and a short report submitted to the Local Authority to certify its compliance with the limits. Where there is a change in the sound system or items that affect the level of sound produced then the limiter should be reset, and a report provided to the Local Authority to set out and record how this was done.

[13] No percussion shall be permitted unless it is electronic and which runs through the noise limiter; any live unamplified musical entertainment shall not include any percussive or brass instruments.

Noise & Dispersal Management Plan:

[14] A noise and dispersal management plan shall be submitted and approved by the Local Authority, which sets out how operational noise from all sources, and people using the external spaces, will be managed and minimized to the lowest levels practicable, applying best practice. It shall also include how complaints will be dealt with and the checks that will be made to ensure the noise and dispersal management plan is being implemented. It shall also include how the residents in the accommodation areas are to be managed and monitored.

Deliveries:

[15] There shall be no deliveries before 08:00 or after 12:00.

Bottle Disposal:

[16] Empty bottles will be stored in partitioned crates or other partitioned receptacles and are disposed of no earlier than 08:00 and no later than 12:00.

Security:

[17] A caretaker and / or security operative shall be on the premises at all times that the accommodation area is occupied to monitor the conduct of residents at all times and in particular after the end of licensable activities and the official events.

Summary of Addition Information attached with the application:

[1] Medway Council Environmental Noise Abatement Notices, both issued, 29th June, 2017.

[2] Letter from Mr Holland to Sarah Foster dated 6th June, 2017 with a diary of impacts dated 2nd April – 3rd June, 2017.

[3] Additional contemporaneous notes and diary entries.

[4] Noise Impact Assessments by MRL Acoustics, January, 2015 and October, 2015.

[5] Compilation of audio recordings provided by MRL along with updating Noise Monitoring Audio Report, November, 2017.

[End]



LICENSING HEARING PANEL

SUB-COMMITTEE OF LICENSING AND SAFETY COMMITTEE

13 MARCH 2018

EXCLUSION OF PRESS AND PUBLIC

Report from/Author: Perry Holmes, Monitoring Officer

Summary

This report summarises the content of the report which, in the opinion of the proper officer, contains exempt information within one of the categories in Schedule 12A of the Local Government Act 1972. It is a matter for the Sub-Committee to determine whether the press and public should be excluded from the meeting during consideration of this document. This relates to a request for an urgent review to be undertaken being received from the Police on 12 March 2018.

1. Recommendation

- 1.1 The Sub-Committee is required to decide whether to exclude the press and public during consideration of the following document because consideration of this matter in public would disclose information falling within one of the descriptions of exempt information contained in Schedule 12A to the Local Government Act 1972, as specified below, and, in all the circumstances of the case, the public interest in maintaining the exemption, outweighs the public interest in disclosing the information.

Report Title	Consideration of interim steps following an application for summary review of a premises licence – Prince of Wales, 90 Cecil Road, Rochester, Kent ME1 2QT
Agenda Item	10 – Appendix C
Category of exempt information (Schedule 12A of the Local Government Act 1972)	Not for publication under paragraphs 1, 5, and 7 of part 1 of Schedule 12A of the Local Government Act 1972 – on the grounds that it relates to: <ul style="list-style-type: none"> 1. Information relating to any individual. 5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
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Lead Officer Contact:

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Appendices:

None

Background Papers:

None



LICENSING HEARING PANEL

13 MARCH 2018

LICENSING ACT 2003 CONSIDERATION OF INTERIM STEPS FOLLOWING AN APPLICATION FOR SUMMARY REVIEW OF A PREMISES LICENCE

**PRINCE OF WALES, 90 CECIL ROAD, ROCHESTER, KENT
ME1 2HS**

Report from: Perry Holmes, Assistant Director Legal and Corporate Services

Author: Mandy Francis, Senior Licensing and Enforcement Officer

Summary

An application has been received from Superintendent Lukey, on behalf of the Chief Officer of Kent Police, for an Expedited Review of the premises licence at Prince of Wales, 90 Cecil Road, Rochester, Kent ME1 2HS, as the premises has been associated with serious crime and disorder.

The relevant provisions within the Licensing Act 2003 allow a quick process for attaching interim conditions to a licence and a fast track licence review when the police consider that the premises concerned is associated with serious crime or serious disorder, or both.

The Act requires expedited premises licence review applications to be considered within 48 hours, pending a full hearing of the issues within 28 days of the date that the application was served.

1. The application

- 1.1 On 12 March 2018 the Council received an application for an expedited review of the premises licence in respect of Prince of Wales, 90 Cecil Road, Rochester, Kent ME1 2HS as they consider it necessary to take interim steps pending determination of the review of the premises licence.
- 1.2 The details of the association of the above premises with serious crime, serious disorder is attached at Appendix A.

2. Background

- 2.1 The summary review powers under sections 53A to 53C of the Licensing Act 2003 allow the police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with serious crime or serious disorder (or both); and allows the licensing authority to respond by taking interim steps quickly, where appropriate, pending a full review.
- 2.2 The current Premises Licence for Prince of Wales, 90 Cecil Road, Rochester, Kent ME1 2HS is held by Mr Alfred Martin and Mrs Rita Martin who are resident at the premises.
- 2.3 The Designated Premises Supervisor (DPS) is Mr Alfred Martin, who holds a Personal Licence issued by Medway Council, licence number Medway 05 PL-0071 Medway Council
- 2.4 Without prejudice, the Officer would like to draw to Members attention issues that they may wish to consider:

The following conditions are already added to the premises licence:

Mandatory Conditions

Condition 1

No supply of alcohol maybe made under this licence:-

- a) At a time when there is no designated premises supervisor in respect of it or
- b) At a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.

Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

Condition 2

Only individuals licensed by the Security Industry Authority (SIA) maybe used at the premises to guard against:-

- (a) Unauthorised access or occupation (e.g. through door supervision)
- (b) Outbreaks of disorder
- (c) Damage

Condition 3

- (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale of supply of alcohol for consumption on the premises

- (a) Games or other activities which require or encourage, or are designed to require or encourage, individuals to
 - (i) Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol) or
 - (ii) Drink as much alcohol as possible (whether within a time limit or otherwise)

- (b) Provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries significant risk of undermining a licensing objective;
- (d) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) Dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

Condition 4

The responsible person must ensure that free potable water is provided on request to customers where it reasonably available.

Condition 5

- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either
 - (a) a holographic mark, or
 - (b) an ultraviolet feature

Condition 6

The responsible person must ensure that:-

- (a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:-
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25ml or 35 ml; and
 - (iii) still wine in a glass: 125ml; and
- (b) These measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) Where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Condition 7

- (1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price, which is less than the permitted price.
- (2) For the purpose of the condition set out in paragraph 1:-
- (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
 - (b) “permitted price” is the price found by applying the formula:- $P = D + (D \times V)$ where:-
 - (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence:-
 - (i) the holder of the premises licence
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994(7)
- (3) Where the permitted price given by Paragraph (b) of paragraph (2) would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- (4) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph (2) on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Conditions consistent with the Operating Schedule

Condition 8

CCTV cameras installed and maintained with an incorporated recording facility. Recordings to be stored for an appropriate period (generally one month - but to be agreed with Police and Licensing Authority). The CCTV system to be fully operationally throughout the hours that the premises are open for any licensable activities. Recordings to be made available to Police and Local Authority on request.

Condition 9

Children are not allowed on the premises after 22:00 (10pm).

Condition 10

A notice is displayed at the entrance/exit of the premises to remind customers to leave the premises quietly.

Condition 11

Recorded Music events ceasing at 00:30 will be limited to 5 days a year.

Annex 3 – Conditions attached after a hearing by the licensing authority

Condition 12

When regulated entertainment, which generates significant noise, is taking place, doors and windows will be kept shut after 23:00 (11pm).

Condition 13

All staff to be trained to the BIIAB Level 1 Responsible Alcohol Retailing Qualification in order to support the DPS and Personal Licence Holder to retail alcohol responsibly and within 21 days. Evidence must be available to the Licensing Team and Police that staff have been enrolled on such courses.

Condition 14

A record of regular staff training be kept and updated by the management of the premises. The records to be made available for inspection to Police and other relevant authorities upon request.

Condition 15

A refusals and incident log be kept and maintained by management and staff at the premises. To be made available for inspection to Police and other relevant authorities upon request.

Condition 16

A Personal Licence Holder to be present on the premises at any time the premises is open for business.

Condition 17

All customers appearing to be under the age of 21 are required to provide proof of age before being supplied with alcohol.

Condition 18

Maintain existing CCTV system to cover the exterior of the premises and that staff are trained on the use of such equipment.

3. Risk Management

- 3.1 The Council has to consider and determine this application, which is a function relating to licensing and registration as set out in Schedule 1 to the Functions Regulations, the Licensing Act 2003. Gambling Act 2005 and other licensing functions reserved by law to the Council's Licensing and Safety Committee and it's Sub-Committees, in accordance with the law (both statutory and case law), relevant statutory guidance and statements of policy.

4 Financial and legal implications

- 4.1 There are no direct financial requirements at this time.

- 4.2 This hearing is regulated by The Licensing Act 2003 (Hearings) Regulations 2005 (as amended).
- 4.3 There is the possibility of a challenge by way of appeal to the decision by either the applicant or objector. Legal advice will be given to members as appropriate at the hearing. However, whatever the decision of the panel members, this must be based on the evidence placed before it and the panel must decide what weight to attribute to this information.

5. Recommendations

- 5.1 Having regard to Licensing Act 2003, the statutory guidance issued under S182, the Council's Licensing Policy and all matters before it, both written and oral, The interim steps the Panel must consider taking are:

- (a) the modification of the conditions of the premises licence;

(Modification of the conditions of the premises licence can include the alteration or modification of existing conditions or addition of any new conditions, including

those that restrict the times at which licensable activities authorised by the licence can take place. Further examples of possible licensing conditions, including those aimed at tackling crime and disorder, can be found in the amended guidance issued under section 182 of the 2003 Act.)

- (b) the exclusion of the sale of alcohol by retail from the scope of the licence;

- (c) the removal of the designated premises supervisor from the licence;

- (d) the suspension of the licence

Lead officer contact:

Mandy Francis – Senior Licensing and Enforcement Officer

Telephone: 01634 331922 Email: mandy.francis@medway.gov.uk

Appendices

Appendix A – Certificate

Appendix B – Application for Summary Review

Appendix C - Photographic Evidence (Exempt Item)

Background papers

None

Kent Police
Force Headquarters, Sutton Road, Maidstone, Kent ME15 9BZ

CERTIFICATE UNDER SECTION 53A (1) (b) OF THE LICENSING ACT 2003

I hereby certify that in my opinion the premises described below are associated with serious crime.

Premises:

Prince of Wales, 90 Cecil Road Rochester ME12QT

Premises licence number (if known): MEDWAY-05-PREM-0003

Name of premises supervisor (if known): Mr Alfred Martin

I am a Superintendent in the Kent Police Force

I am giving this certificate because I am of the opinion that the premises are associated with serious crime and that other procedures under the Licensing Act are inappropriate.

Although the premises have not come to the attention of the licensing committee before, Kent Police Licensing have been monitoring this premises for some time with regards to drug use concerns and non-compliance of the premises licence namely: operating beyond licenced hours. The nature of this offence is so serious as to justify the immediate decision to call an expedited review. Other powers under the licensing act, or other acts, are not appropriate and do not address the issue with immediate effect, a standard licence review would not suffice as it will take 28 days to come to hearing and may be appealed prior to application. Allowing the public house to continue operating will fuel the risk of further serious crime occurring before sufficient measures can be put into place to allay such fears.

The benefits of dealing with this by way of an expedited review allows an interim step of suspension to apply immediately, thereby safeguarding members of the public and preventing further offences.

On Saturday 10th March 2018 at approximately 01:20 hours police were called to reports of a violent disturbance occurring inside the Prince of Wales public house. As a result of the disturbance a male has received a significant head injury having been cut from the top of the head down the left side of the face, passing close to the eye and down the cheek ending just shy of the jaw bone resulting in over a litre of blood loss and requiring 40 stitches. At this stage it is suspected that a large knife or machete was used as a weapon to cause the injury and the suspect is currently unknown. CCTV at the venue was not recording at the time of the incident. This amounts to a breach of condition attached to the premises licence. The lack of CCTV could have potential implications in this investigation regarding the identification of the offender and evidence of the offence.

The premises is licenced to sell alcohol each Friday and Saturday from 10:00 - 00:00 and opening hours are 10:00 - 00:30. This incident occurred whilst the venue was operating outside licensable hours, again in breach of the premises licence.

The crime scene (bar area and blood) was cleaned by staff prior to police arrival potentially hindering the investigation and possible forensic opportunity.

Kent Police are of the opinion that if the premises were to remain open to the public it may be a flashpoint for further incidents of serious crime and disorder. Furthermore, the Police wish to see this premises closed until a full review of the facts can be undertaken by the

Council Licensing Committee with regard to the management of the premises. This enables consideration to be given as to whether further controls are required at the premises so as to prevent serious crime and disorder. Until this consideration is undertaken the Police consider that there is a risk of serious crime and disorder reoccurring at the premises.

Given the above Police are seeking the temporary suspension of the premises licence followed by a full review and are of the opinion that this is the appropriate course of action under the Licensing Act 2003 to preventing serious crime and disorder from reoccurring.

Superintendent

.....

ANNEX C

FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

Medway Council, Gun Wharf, Dock Rd, Chatham, Kent ME4 4TR

Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. **Use additional sheets if necessary.**

I Superintendent Lukey [on behalf of] the chief officer
of police for
the North Division police area apply for the review
of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details:

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**Prince of Wales
90 Cecil Road
Rochester
Kent**

Post town: Rochester

Post code (if known): **ME12QT**

2. Premises licence details:

Name of premises licence holder (if known): Mr Alfred Martin

Number of premises licence holder (if known): Medway-05-PREM-0003

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for

the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm) ☒

4. Details of association of the above premises with serious crime, serious disorder or both:

[Please read guidance note 2]

On Saturday 10th March 2018 at approximately 01:20 hours police were called to reports of a violent disturbance occurring inside the Prince of Wales public house.

As a result of the disturbance:

A male has received a significant head injury having been cut from the top of the head down the left side of the face, passing close to the eye and down the cheek ending just shy of the jaw bone resulting in over a litre of blood loss and requiring 40 stitches.

At this stage it is suspected that a large knife or machete was used as a weapon to cause the injury.

The suspect is currently unknown.

CCTV at the venue was not recording at the time of the incident. This amounts to a breach of condition attached to the premises licence. The lack of CCTV could have potential implications in this investigation regarding the identification of the offender and evidence of the offence.

The premises is licenced to sell alcohol each Friday and Saturday from 10:00 - 00:00 and opening hours are 10:00 - 00:30. This incident occurred whilst the venue was operating outside licensable hours, again in breach of the premises licence.

The crime scene (bar area and blood) was cleaned by staff prior to police arrival potentially hindering the investigation and possible forensic opportunity.

Signature of applicant:

Date: 12 March 2018

Capacity: Superintendent - North Division

Contact details for matters concerning this application:

Address: **PC 11044 Dan Hunt - North Divisional Licensing Officer**
Community Safety Unit
Medway Police Station
Purser Way
Gillingham
Kent
ME7 1NE

Telephone number(s): 01634 792388

Email: daniel.hunt@kent.pnn.police.uk

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

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NOT FOR PUBLICATION

By virtue of paragraph(s) 1, 5, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

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