

LICENSING HEARING PANEL

6 OCTOBER 2015

LICENSING ACT 2003 APPLICATION FOR REVIEW OF A PREMISES LICENCE

SUNNY NEWS 9 SKINNER STREET GILLINGHAM KENT ME7 1HD

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

Author: Helen Buddin, Licensing Officer

Summary

In accordance with Section 51 of the Licensing Act 2003, the Council has received an application from Kent Police, as a responsible authority, for a review of the existing premises licence in respect of Sunny News 9 Skinner Street Gillingham Kent ME7 1HD

1. Budget and Policy Framework

- 1.1 Medway Council has published its Statement of Licensing Policy, which it takes into account in all applications relating to the Licensing Act 2003. Paragraph 3 specifically deals with the question of crime and disorder, which is the objective raised in respect of this review application.

2. Background to the application & relevant representations

- 2.1 An application for review was received from Kent Police, as a responsible authority, in respect of Sunny News 9 Skinner Street Gillingham Kent ME7 1HD. The premises currently operate by way of a premises licence granted in accordance with the Licensing Act 2003, a copy of which is attached at Appendix A. A copy of a plan showing the location of the premises is at Appendix B.
- 2.2 A copy of the review application is at Appendix C and the Panel's attention is drawn to the grounds for the review, related to the licensing objectives of the Licensing Act 2003.
- 2.3 The application has been correctly advertised by way of the display of notices at and around the premises and on the Council's website for the required period, in accordance with regulations made under the

Licensing Act 2003. Also, in accordance with the legislation, notice of the application (and the application itself) was served on the licence holder and the other responsible authorities.

- 2.4 Before determining the review application, the Council as licensing authority must hold a hearing to consider it and any relevant representations received.
- 2.5 Following the advertising of the review application, no relevant representations have been received from interested parties, any of the other responsible authorities or the premises licence holder.

3. Advice and analysis on determination of review application

- 3.1 At the panel hearing, Members must, having regard to the review application and the relevant representations received, take any of the following steps considered necessary to promote the licensing objectives of the Act:-
 - (a) modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
 - (b) exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
 - (c) remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - (d) suspend the licence for a period not exceeding three months;
 - (e) revoke the licence
- 3.2 Paragraph 11.16 – 11.18 of the revised guidance issued by the Home Office on 27 June 2013 under Section 182 of the Licensing Act 2003 states " The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives. The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder. However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

4. Risk Management

- 4.1 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 its Sub-Committees, in accordance with the law (both statutory and case law), relevant statutory guidance and statements of policy.

5. Financial and legal implications

- 5.1 There are no direct financial requirements at this time.
- 5.2 This hearing is regulated by The Licensing Act 2003 (Hearings) Regulations 2005 (as amended).
- 5.3 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.

6. Decision Required

- 6.1 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 steps that the licensing authority may consider taking are outlined in paragraph 3.1.

Lead officer contact: Helen Buddin, Licensing Officer
Telephone: 01634 331926
Email: helen.buddin@medway.gov.uk

Appendices:

Appendix A – Copy of current premises licence
Appendix B - Plan showing the location of the premises
Appendix C - Copy of the Review Application

Background documents

None



MEDWAY COUNCIL

Licensing Authority, Gun Wharf, Dock Road, Chatham, Kent ME4 4TR

Premises Licence

Premises Licence Number

Medway/15/00157/PREM

Part 1 - Premises Details

Postal address of premises, or if none, Ordnance Survey map reference or description Sunny News 9 Skinner Street	
Post town	Gillingham, Kent Post code ME7 1HD
Telephone number	01634 851724
Where the licence is time limited the dates:	Not Applicable
Licensable Activities authorised by the licence Sale of Retail of Alcohol.	
The times the licence authorises the carrying out of licensable activities Monday to Saturday 08:00 to 23:00. Sunday 10:00 to 22:30 Seasonal Times Good Friday 08:00 to 22:30 Christmas Day 12:00 to 15:00 & 19:00 to 22:30	
The opening hours of the premises Monday to Saturday 08:00 to 23:00. Sunday 10:00 to 22:30 Seasonal Times Good Friday 08:00 to 22:30 Christmas Day 12:00 to 15:00 & 19:00 to 22:30 The premises may open outside authorised hours for non-licensable activities subject to planning or other legislation.	
Where the licence authorises supplies of alcohol whether these are on and/or off supplies Off Supplies	

Part 2

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence Mr Vasant Patel and Mrs Manishaben Patel
Registered number of holder, for example company number, charity number (where applicable) Not Applicable
Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol Mr Vasant Patel
Personal licence number and issuing authority of personal licence held by designated premises

supervisor where the premises licence authorises the supply of alcohol
0601220LAPER
London Borough of Bromley

Annex 1 – Mandatory Conditions

Condition 1

No supply of alcohol may be 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

- (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 3

- (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)

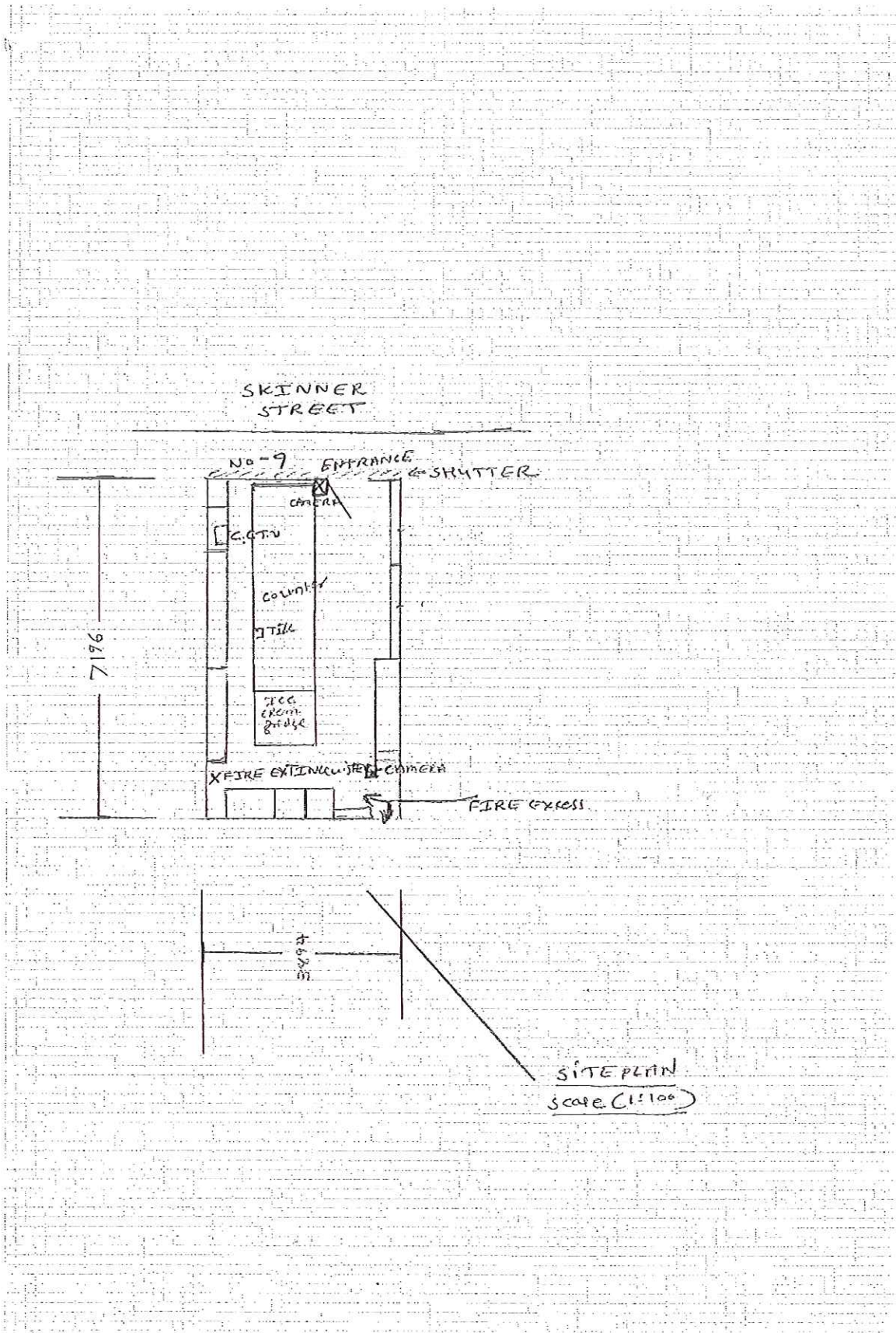
- (3) Where the permitted price given by Paragraph (b) of paragraph (2) would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- (4) (1) Sub-paragraph (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.

Annex 2 – Conditions consistent with the Operating Schedule

Not Applicable

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

Not Applicable



MR. PANTAN...

NORTHGATE SE GIS Print Template



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RESTRICTED (when complete)

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

10 AUG 2015

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 this 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. You may wish to keep a copy of the completed form for your records.

I DC Gill Angus

(Insert name of applicant)

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Sunny News 9 Skinner Street	
Post town Gillingham, Kent	Post code (if known) ME7 1HD

Name of premises licence holder or club holding club premises certificate (if known) Mr Vasant Patel and Mrs Manishaben Patel

Number of premises licence or club premises certificate (if known) Medway-05-PREM-0180
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Part 2 – Applicant details

I am

Please tick yes

- 1) an interested part (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)

3 a member of the club to which this application relates (please complete (A) below)

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Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in a applicable)

Please tick

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

Please tick yes

I am 18 years old or over

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

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Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address DC Gill Angus - Police Licensing Officer Medway Police Station Purser Way Gillingham Kent ME7 1NE
Telephone number (if any) 01634 792388
E-mail address (optional) licensing.north.division@kent.pnn.police.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please state the ground(s) for review (please read guidance note 1)

Sunny News has failed to promote the prevention of crime and disorder objective.

Sunny News was visited in a joint operation between Kent Police Licensing and officers from HM Revenue and Customs (HMRC) on Wednesday 29th July 2015.

During this visit 114.75 litres (159 bottles) of non duty paid Italian Wine were seized by HMRC

RESTRICTED (when complete)

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

Please provide as much information as possible to support the application

(please read guidance note 2)

HM Revenue and Customs (HMRC) and Kent Police Licensing officers attended Sunny News 9, Skinner Street Gillingham Kent ME7 1HD.

While at the premise HMRC officers located the following items in a basement the entrance to which was covered by a carpet. The male working in the shop Himanshu PATEL had only been employed since Friday 24th July to cover the licence holders holiday and was unaware of the basement. Inside the basement HMRC officers discovered 20 cases of Italian wine. Also there were several bottles of the same wine on the shelves. When asked the price of the wine as it was not price marked officers were advised that it was 2 bottles for £5.00 this does not cover the cost of duty for 2 bottles of wine which is approximately £2.95 per bottle and clearly does not give any profit margin. The officers identified the wine as non duty paid goods and seized them:

- 11 cases (66 bottles) Conti Cantineri found in basement
- 9 case (54 bottles) Le Maredde found in basement
- 39 bottles from the shelves a mixture of those in the basement

Officers from HMRC seized these items under Section 139 of the Customs and Excise Management Act 1979. The premises Licence Holder and Designated Premise Supervisor Mr Vasant Patel was not present at the time of the seizure but Mr Himanshu PATEL signed paperwork in relation to this seizure by HMRC.

Mr Patel has made no attempts to contact officers from HMRC in order to prove the legitimate purchase of these items since this date and HMRC officers looked through some invoices but could find nothing relating to the seized wine.

The purchase, stocking, displaying and sale of these non-duty paid items clearly fails to promote the crime and disorder licensing objective.

The Home office guidance issued under Section 182 of the Licensing Act 2003, section 11.27 states that in relation to reviews – There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale of smuggled tobacco and alcohol. Amongst others.

Section 11.28 continues to state - It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Kent Police Licensing are seeking to review this licence in order to promote the licensing objectives and ask for:

- 1) Revocation of the premises licence

However, should the committee decide not to revoke the premises licence then Kent Police Licensing ask for

- 1) Suspension of the premises licence for a period of 3 months to allow the venue to reset
- 2) Modify the conditions of the licence

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

If you have made representations before relating to this premises please state what they were and when you made them

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FLASE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant’s solicitor or other duly authorised agent (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date

..... 6th August 2015

Capacity

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

Post town	Post code
------------------	------------------

Telephone number (if any)

If you would prefer us to correspond with you using an e mail address your e mail address (optional)

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.