

## **LICENSING HEARING PANEL**

**25 JULY 2018**

### **LICENSING ACT 2003 CONSIDERATION OF INTERIM STEPS FOLLOWING AN APPLICATION FOR EXPEDITED REVIEW OF A PREMISES LICENCE**

**CRICKETERS, 88 HIGH STREET, RAINHAM,  
KENT ME8 7JH**

Report from: Perry Holmes, Chief Legal Officer

Author: Mandy Francis, Principal Licensing and Enforcement Officer

#### **Summary**

An application has been received from Superintendent McDermott, on behalf of the Chief Officer of Kent Police, for an Expedited Review of the premises licence at Cricketers, 88 High Street, Rainham, Kent ME8 7JH, 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 24 July 2018 the Council received an application from Kent Police for an expedited review of the premises licence in respect of Cricketers, 88 High Street, Rainham, Kent, ME8 7JH, as they considered it necessary for interim steps to be taken pending determination of a full review of the premises licence.

- 1.2 The details of the association of the above premises with serious crime or serious disorder are attached at Appendix A and Appendix B.

## **2. Background**

- 2.1 The expedited 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 Cricketers, 88 High Street, Rainham, Kent ME8 7JH is held by Greene King Retailing Limited, Westgate Brewery, Bury St. Edmunds, Suffolk, IP33 1QT.
- 2.3 The Designated Premises Supervisor (DPS) is Mr Glenn Mullen, who holds a Personal Licence issued by London Borough of Havering Council, licence number 010597.
- 2.4 Without prejudice, the Officer would like to draw to Members' attention the following 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 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

Only individuals licensed by the Security Industry Authority (SIA) may be 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, internally and externally. Maintained in good working order, in accordance with CCTV Code of Practice. The system to have an incorporated recording facility and recordings to be stored for one calendar month. The CCTV system to be fully operational throughout the hours that the premises are open for licensable activity. Access of the recordings to be made available to Police and Local Authority officers on request.

Condition 9

When regulated entertainment, which generates significant noise, is taking place, doors and windows will be kept shut.

Condition 10

Reproduced or live music is to be set at a level so as not to be audible at the facade of the nearest residential property.

Condition 11

The designated premises supervisor, duty manager or relevant person should assess noise levels on a regular basis, to prevent excessive breakout.

Condition 12

All staff to be trained in all aspects of the licensing legislation and in particular under age sales to support the responsibilities of the Designated Premises Supervisor. Training records will be maintained and available for inspection on request of Police and Licensing Officers.

Condition 13

No regulated entertainment to take place outdoors.

Condition 14

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

Condition 15

A noise limiter shall be installed at the premises by a competent person and set to an agreed level acceptable to the Local Authority Environmental Health department. Once installed and set, the limiter will be maintained in good working order.

Condition 16

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

Condition 17

No licensable activities or consumption of alcohol to take place in any outdoor area after 23:00. No vessels, glasses or bottles to be allowed out in any outside area after 23:00.

Condition 18

To assist the Police in tackling drug abuse in the 'night time economy' by incorporating the use of Ion Track swabbing as a condition of entry when requested by Police. Regular swabbing of public areas as agreed with Police.

### Condition 19

Minimum of two SIA registered door supervisors to be employed on Friday and Saturday nights.

### Condition 20

External background music to be turned off at 21:00 (9pm).

### Condition 21

A risk assessment will be carried out by the DPS or responsible person with regards to any planned sporting event and if deemed necessary two SIA registered door supervisors will be employed. Written record of the risk assessment to be retained by the DPS or responsible person and to be readily available to Police and Local Authority officer if requested.

### Condition 22

Staff will be trained to operate a 'Challenge 21' policy, ask those who look under 21 for identification.

## **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, the 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.

## **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. Recommendation**

- 5.1 That the Panel, 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, considers whether to take any interim steps pending a full review of the licence. 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 – Principal Licensing and Enforcement Officer

Telephone: 01634 331922      Email: [mandy.francis@medway.gov.uk](mailto:mandy.francis@medway.gov.uk)

**Appendices**

Appendix A – Certificate

Appendix B – Application for Expedited Review

**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:* Cricketers, 88 High Street, Rainham, Kent ME87JH

*Premises licence number (if known):* MEDWAY-08-PREM-0493

*Name of premises supervisor (if known):* Mr Glenn Mullen

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.

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 without any changes to its operation well into the summer period, where it could be reasonably anticipated it will be busier with the potential for heavier alcohol consumption. This will fuel the risk of further serious crime occurring before sufficient measures can be put into place to prevent crime and disorder.

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

On Saturday 21<sup>st</sup> July 2018 around 00:32 hours a violent incident occurred inside of the Cricketers Public House, High Street, Rainham, Kent. This serious incident involved a group of males assaulting at least three separate people. Two males were punched and kicked to the floor inside the premises, in an area of the public house being used for a dancefloor. A female that was not linked to the violent disturbance was caught up in the melee and was hit to the head with a glass bottle that was thrown. CCTV footage of the incidents shows bottles and chairs being thrown and used as weapons. This disturbance then continue outside and into the street, where a further male was punched to ground and knocked unconscious.

Kent Police are currently investigating this incident as an assault occasioning Grievous Bodily Harm and assaults occasioning Actual Bodily Harm.

Kent Police are of the opinion that if the premises were to remain open to the public, without modification to the conditions of the premises licence and a change of the management, the venue may be a flashpoint for further incidents of serious crime and disorder.

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 Police consider that there is a risk of serious crime and disorder reoccurring at the premises.

Due to the above, Police are seeking the interim step of the removal of the designated premises supervisor and the modification of the conditions of the premises licence to prevent serious crime and disorder from reoccurring.

D/Superintendent 8360 MCDERMOTT

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

Medway Council, Gun Wharf, Dock Road, Chatham, Kent, ME44TR

**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 D/Superintendent 8360 McDermott [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:

**Cricketers.  
88 High Street  
Rainham**

Post town: Gillingham

Post code (if known): **ME87JH**

**2. Premises licence details:**

Name of premises licence holder (if known): Green King Retailing Limited

Number of premises licence holder (if known): MEDWAY-08-PREM-0493

**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]

**At approximately 00:32 hours on Saturday 21<sup>st</sup> July 2018 there was a violent disturbance in the rear area of the Cricketers Public House. This area was being used for a dancefloor whilst a DJ / Disco was in operation. This serious incident involved a group of males who assaulted three separate people. 2 males were punched and kicked to the floor, whilst a female who was not at all linked in the incident was hit to the head with a glass bottle that was used as a missile.**

**Bottles and stools/chairs were thrown and used as weapons as part of this incident.**

**The fight/disturbance then continued outside, resulting in a further male being punched to the floor and being knocked unconscious.**

**To date, one male has been arrested as part of this investigation however a number of other males involved have yet to be located by police.**

**This is an incident of serious crime and disorder.**

**Kent Police have had cause to have a number of dealings with the Cricketers Public House this calendar year. Most notably in February 2018 following violent fights at the premises involving glass. This resulted in the varying of the premises licence on request of Kent Police. Additionally during the screening of the World Cup matches this month, whereby the venue was the location of a number of incidents of disorder as a result of poor safety management and planning.**

**Full evidence will be provided at the hearing.**

**In order to promote the licensing objectives of the prevention of crime and disorder and promotion of public safety, the interim steps police seek is the removal of the designated premises supervisor (Mr Glenn Mullen) and modification of the conditions of the premises licence, pending the full review hearing.**

**Modification of conditions such as reduction in operating hours to 2300 hours, removing the use of all glass ware on Friday and Saturdays after 2000 and the employing of additional SIA door staff, will allow the venue to reset during its 'high risk' periods, whilst also allowing the venue to continue to operate during lower risk periods.**

**During this period the police will be able to examine more closely the operation of the premises and should revocation not be sought, police and management may be able to agree necessary alterations to the operation of the premises including but not limited to: reduction in the operating hours, the requirement for door staff, and the potential change of management.**

Signature of applicant:

Date: 24<sup>th</sup> July 2018

Capacity: D/Superintendent 8360 McDermott - North Division

**Contact details for matters concerning this application:**

Address: **PC 12000 Chris Hill - North Division Licensing Officer**

**Community Safety Unit**

**Medway Police Station**

**Purser Way**

**Gillingham**

**Kent**

**ME7 1NE**

Telephone number(s): 01634 792276

Email: christopher.hill@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.

