

LICENSING HEARING PANEL

16 APRIL 2019

LICENSING ACT 2003 APPLICATION FOR A REVIEW OF A PREMISES LICENCE

**SPARTAN BAR, REAR OF 75 HIGH STREET,
STROOD, KENT, ME2 4AH**

Report from: Perry Holmes, Chief Legal Officer

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 Spartan Bar, Rear of 75 High Street, Strood, Kent, ME2 4AH.

All responsible authorities have been consulted in line with the Licensing Act 2003.

A representation supporting the review has been received from the Kent Fire and Rescue Service. No further representations supporting the review have been received from members of the public or other responsible authorities.

Following the application for a review, the licensee surrendered the premises licence on 25 March 2019.

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.

2. Background to the application and relevant representations

- 2.1 An application for review has been received from Kent Police as a responsible authority, in respect of Spartan Bar, Rear of 75 High Street, Strood, Kent ME2 4AH.

- 2.2 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.
- 2.3 A redacted copy of the review application is at Appendix C (the full version is attached as an Exempt Appendix under item 7, Exclusion of the Press and Public) and the Panel's attention is drawn to the grounds for the review, which relate to the prevention of crime and disorder and public safety licensing objectives of the Licensing Act 2003.
- 2.4 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. 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, a representation supporting the review has been received from the Kent Fire and Rescue Service (copy attached at Appendix D). No further representations supporting the review have been received from members of the public or other responsible authorities.
- 2.6 Following the application for a review, the licensee surrendered the premises licence on 25 March 2019. A copy of the letter from the licensee confirming the surrender of the premises licence is attached at Appendix E.

3. Advice and analysis on determination of the review application

- 3.1 At the hearing, the Panel 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 it considers 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 in March 2015 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, this must be based on the evidence placed before it and the Panel must decide what weight to attribute to this information.

6. Recommendation

- 6.1 That the Licensing Hearing Panel, having regard to Licensing Act 2003, the statutory guidance issued under S182, the Council's Statement of Licensing Policy and all matters before it, both written and oral, considers the application for review and revokes the premises licence, to prevent it being reinstated.

- 6.2 Should the Licensing Hearing Panel not be minded to revoke the premises licence, the alternative steps that it may consider taking are set out 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 - Redacted copy of the Review Application

Appendix D - Copy of the supporting representation

Appendix E – Copy of letter surrendering licence.

Exempt Appendix - Copy of the full version 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/18/00073/PREM

Part 1 - Premises Details

Postal address of premises, or if none, ordnance survey map reference or description Spartan Bar Rear of 75 High Street	
Strood Kent	Post code ME2 2UH
Telephone number Not known	
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 <u>Sale of Retail of Alcohol</u> Monday to Sunday 10:00 to 23:00	
The opening hours of the premises Monday to Sunday 10:00 to 23:00 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 On	

Part 2

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence Mrs Janet Sterry Rear of 75 High Street Strood Rochester Kent ME2 4AH Telephone [REDACTED]
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 Robert Medley [REDACTED] [REDACTED] [REDACTED]
Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol Medway-09-PL-1881 Medway Council

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

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 or 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.

Annex 2 – Conditions consistent with the Operating Schedule

Condition 8

CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition. Cameras shall encompass all ingress and egress to the premises, outside the premise, fire exits and all areas where the sale and supply of alcohol occurs. Equipment must be maintained in good working order, be correctly time and date stamped, recordings MUST be kept on the hard drive and kept for a period of 31 days and handed to Police on demand. The premises licence holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format to the Police and Local Authority on demand. The recording equipment and hard drive shall be kept in a secure environment under the control of the DPS or other responsible named individual. In the event of technical failure of the CCTV equipment the premises licence holder or DPS must report the failure to the Police Licensing Officer immediately at licensing.north.division@kent.pnn.police.uk

Condition 9

All persons that sell or supply alcohol to customers must have licensing training.

- (a) Training should take place within six weeks of employment
- (b) Any new employees will be supervised until the training has taken place.
- (c) Refresher training should be repeated a minimum of every six months or earlier if required due to changes of legislation.
- (d) Training records must be kept on the premises and shall contain the nature, content and frequency of all training.
- Records must be made available for inspection by Police, Police Licensing Officer and authorised officers from the Local Authority on demand either electronically or hard copy.

Condition 10

The premises licence holder or designated premises supervisor must keep a refusal register. Staff to be trained to complete a refusal book/record immediately after the refusal but no later than the end of their shift. The register must be kept on the premises and will detail:-

- (f) Day, Date and Time of Refusal/Incident
- (g) Item refused
- (h) Name or description of person refused sale
- (i) Reason for refusal
- (j) Each entry is to be checked and signed by the DPS/Licensee no later than 1 week after the entry has been made
- (k)
- (l) This register must be made available for Police , Police Licensing Officer and Officer of the Local Authority on demand either electronically or hard copy

Condition 11

The licence holder and/or designated premises supervisor shall ensure that at least one personal licence holder is available on the licensed premises while the sale or supply of alcohol is being undertaken at the premises.

Condition 12

No children under 16 years old to be accompanied by an adult and will not be allowed on the premises after 21:00 (9pm) except for pre- booked functions.

Condition 13

Only polycarbonate or suitable toughened glass vessels shall be used at the premises.

Condition 14

Challenge 25' proof of age scheme shall be operated at the premises

Condition 16

Chairs if used outside will be stored away each night.

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

Not Applicable





APPENDIX B

Rear of 75 High Street, Strood, Rochester, Medway, ME2 4AH

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

REDACTED VERSION

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 PC 11044 HUNT

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 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
Spartans Bar
75 High Street
Strood
Rochester
Kent

Post town Rochester

Post code (if known) ME24AH

Name of premises licence holder or club holding club premises certificate (if known)
Janet Sterry

Number of premises licence or club premises certificate (if known)
MEDWAY/18/00073/PREM

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) ☒

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

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

(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)

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 PC 11044 Hunt Medway Police Station Purser Way Gillingham Kent Police ME71NE
Telephone number (if any) 01634 792388
E-mail address (optional) 11044@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 | <input checked="" type="checkbox"/> |
| 2) public safety | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

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

Kent Police submit this application to review Spartans Bar in order to promote the licensing objectives of public safety, protection of children from harm and the prevention of crime and disorder.

This is following a series of licence breaches and continued mismanagement of the premises over a prolonged period during which incidents of crime and disorder have occurred.

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)

This application will outline multiple incidents, which demonstrate that at least 3 of the unique licensing conditions relating to this premises are being routinely breached.

The application also shows the efforts of both Police Licensing Officers and Licensing Authority Officers to try and address these issues using a stepped approach to support both the Designated Premises Supervisor and the Premises Licence Holder. These have not only been unsuccessful but have resulted in these officers being subjected to verbal abuse and aggressive behaviour.

Finally, this application will outline how the Designated Premises Supervisor is completely unsuitable and not a fit and proper person to uphold the licensing objectives, and how the Premises Licence Holder is in a situation which has completely removed her of control to replace him, or have any control generally over the premises.

It is often the case that police will request a licence review as a result of a very serious incident such as a glassing, stabbing or other grievous bodily harm assault occurring inside a licenced premises. Whilst Kent Police are unaware of an incident of such severity occurring at the premises, it is fearful that should the premises continue to operate in its current form without action being taken, the chances of such an incident taking place grows increasingly likely. In these circumstances it would be irresponsible to wait for such an incident to take place before calling for a review.

Having considered all of the available options, Kent Police seek revocation of the premises 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

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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 FALSE 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

20/02/19

Capacity

POLICE LICENSING OFFICER

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.



**Kent Fire &
Rescue Service**

North Kent Fire Safety Office
Watling Street
Chatham
Kent
ME5 7HQ
E-mail
TFS.northgroup@kent.fire-uk.org

T 01622 212413

licensing@medway.gov.uk

Our ref:
LIC02

Inspector:
L Dowling

Date:
18 March 2019

Dear Sir,

Licensing Act 2003

Re: 'Spartans Bar', 75 High Street, Strood, Rochester, ME2 4AH

With reference to the application dated **20 February 2019** the application has been examined and on behalf of the Fire Authority I wish to make a representation to the licensing committee that the Public Safety objective of the Licensing Act has not been adequately addressed.

The Fire Authority wish to make a representation for the following reasons:

- There is no evidence a Fire Risk Assessment is in place.
- The responsible person has failed to comply with a duty to set out relevant procedures and safety drills in case of serious and imminent danger.
- There is an active Prohibition Notice on the premises restricting sleeping due to lack of fire safety measures at the premises.

In the event that we receive full documentation, and the Public Safety objective of the Licensing Act has been adequately addressed, the Fire Authority will immediately notify all parties with a view to dispense any hearing in relation to our representation.

This letter is without prejudice to the powers of the licensing authority and to any requirements or recommendations that may be made by enforcing authorities under other legislation.

If you require any further advice please contact this Fire Safety Office.

Yours faithfully



L Dowling
Fire Safety Inspector

cc.: Licensing Authority
Police Licensing Officer

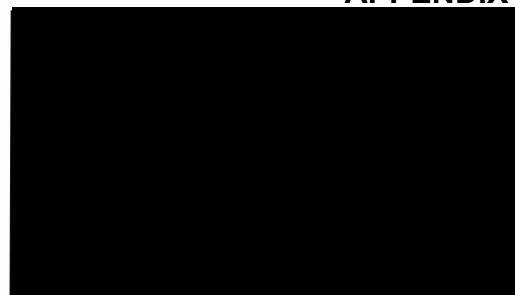


*Printed in black and white
'Reducing our impact on the environment'*

www.kent.fire-uk.org

Chief Executive
Ann Millington

25 MAR 2019



25 March 2019.

Dear Licensing,

Please find enclosed my Premises licence for Spartans Bar, which I surrender with immediate effect.

Yours sincerely



Janet Sterry.