

LICENSING HEARING PANEL

4 DECEMBER 2020

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

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Summary

An application has been received from Superintendent Hine, on behalf of the Chief Officer of Kent Police, for an Expedited Review of the premises licence at The Hop and Rye, 4 Wainscott Road, Wainscott, Kent. ME2 4LB, as the premises has been associated with serious crime.

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 3 December the Council received an application for an expedited review of the premises licence in respect of The Hop and Rye, 4 Wainscott Road, Wainscott, Kent. ME2 4LB 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, is attached at Appendix A and the relevant certificate is attached at Appendix B.

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 The Hop and Rye, 4 Wainscott Road, Wainscott, Kent. ME2 4LB is held by Mr Michael Knight.
- 2.3 The Designated Premises Supervisor (DPS) is Mr Graham David Richards, who holds a Personal Licence issued by Medway Council, licence number Medway-08-PL-1699
- 2.4 Without prejudice, the officer would like to draw to Members' attention to 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

The admission of children under the age of 18 to film exhibitions permitted under the terms of this licence shall be restricted in accordance with any recommendations made by:-

- (a) The British Board of Film classification (BBFC), where the film has been classified by that Board or The Licensing Authority where no classification certificate has been granted by the BBFC, or, where the Licensing Authority has notified the licence holder that section 20 (3)
- (b) applies to the film in question and the admission of children must be in accordance with any recommendation made by the Licensing Authority.

Condition 4

(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 5

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

Condition 6

(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 7

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 8

(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

Condition 9

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.

1. Cameras shall encompass all ingress and egress to the premises, fire exits and all areas where the sale and supply of alcohol occurs.
2. Equipment must be maintained in good working order, be correctly time and date stamped, recordings MUST be kept in date order, and kept for a period of 31 days and handed to Police on demand.
3. 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.
4. The recording equipment and discs/tapes shall be kept in a secure environment under the control of the DPS or other responsible named individual.
5. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.
6. 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 (licensing.north.division@kent.pnn.police.uk)

Condition 10

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

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

All staff will be trained in all aspects of licensing legislation and in particular underage sales.

Condition 11

An incident log shall be kept at the premises, and made available on request to a police officer, police licensing officer or council authorised licensing officer. It must be completed within 24 hours of the incident and will record the following:

1. all crimes reported to the venue
2. all ejections of patrons
3. any complaints received concerning crime and disorder
4. any incidents of disorder
5. all seizures of drugs or offensive weapons
6. any faults in the CCTV system, searching equipment or scanning equipment (g) any refusal of the sale of alcohol
7. any visit by a relevant authority or emergency service.

Condition 12

Staff will ask to see proof of age before supplying/selling alcohol to any person appearing under the age of eighteen in accordance with Challenge 25 or similarly robust scheme. We will only accept as proof of age and identity a photo-card driving licence, passport or any government issued photograph identity card or 'pass accredited' proof of age card.

Condition 13

No Music

Condition 14

No sale of alcohol in the outside garden area.

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 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. 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

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Appendices

Appendix A –Application for Summary Review
Appendix B – Certificate

Background papers

None