

LICENSING HEARING PANEL

22 DECEMBER 2020

LICENSING ACT 2003 APPLICATION FOR SUMMARY REVIEW OF A PREMISES LICENCE

THE HOP AND RYE, 4 WAINSCOTT ROAD, WAINSCOTT, KENT, ME2 4LB

Report from: Perry Holmes, Chief Legal Officer
Author: Franco De Fazio, Senior Licensing Officer

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 to consider what interim steps should be taken, pending a full hearing of the issues within 28 days of the date that the application was served. In this case, the interim steps were agreed at a hearing held on 4 December 2020 where it was determined that the premises licence for The Hop and Rye be suspended, pending the full review hearing, which is the matter before the Panel.

1. Budget and Policy Framework
 - 1.1 Medway Council has published its Statement of Licensing Policy, which it takes into account in the consideration of all applications relating to the Licensing Act 2003.
2. The application
 - 2.1 On 3 December 2020, Superintendent Hine, on behalf of the Chief Officer of Kent Police, applied for the Summary Review of the premises licence in

respect of The Hop and Rye, 4 Wainscott Road, Wainscott, Kent, ME2 4LB, as the premises has been associated with serious crime.

- 2.2 The application has been made in accordance with section 53A of the Licensing Act 2003.
- 2.3 The details of the association of the above premises with serious crime, is attached at Appendix A (Certificate under S53A (1)(b) of the Licensing Act 2003) and this is supported by CCTV evidence. A copy of the summary review application is attached at Appendix B.
- 2.4 A notice has been correctly advertised at the Council's premises and website and notices displayed on the premises for the required period.

3. Background

- 3.1 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.
- 3.2 The Act requires expedited premises licence review applications to be considered within 48 hours and a hearing was held on 4 December 2020 to consider what interim steps were required, pending a full hearing of the issues within 28 days of the date that the application was served. At that hearing the Panel determined that the premises licence be suspended, pending a full review hearing within 28 days. A copy of the decision from this hearing is attached at Appendix C.
- 3.3 The Premises Licence for The Hop and Rye, 4 Wainscott Road, Wainscott, Kent. ME2 4LB held by Mr Michael Knight is attached at Appendix D.
- 3.4 The named Designated Premises Supervisor (DPS) is Mr Graham David Richards, but he no longer has any involvement on a day to day basis at the premises.

4. Promotion of Licensing Objectives

- 4.1 The licensee is expected to demonstrate that they deal with and understand the promotion of the four licensing objectives.
- 4.2 The four licensing objectives are:
 - the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm.

5. Relevant Representations

5.1 The licensing authority must take into account any relevant representations made.

5.2 Relevant representations are those that:

- Relate to one or more of the licensing objectives;
- Have not been withdrawn; and
- Are made by the premises licence holder, a responsible authority or any other person (who is not also a responsible authority).

5.3 Representations in support of the premises are attached at Appendix E.

5.4 Representation in support of the review application have not yet been received by the Licensing Department since, at the time of writing this report, the last date for receipt of valid representations had not passed. When received these representations will be provided as an additional appendix in a supplementary agenda. The Police have yet to confirm whether CCTV evidence will be shown at the hearing and whether they will request the exclusion of the press and public from part of the hearing.

6. Policy and Legal Considerations

6.1 Medway Council has published its Statement of Licensing Policy, which it will consider alongside the amended Guidance issued by the Home Office under section 182 of the Licensing Act 2003 in all applications.

6.2 In determining this application, Members may wish to consider information contained in Appendix 4 to the Statement of Licensing Policy that lists examples of good practice against the four licensing objectives as well as Chapters 9 and 10 of the amended Guidance.

6.3 The steps that the licensing authority may consider taking are:

- The modification of the conditions of the premises licence;
- The exclusion of licensable activities from the scope of the licence;
- The removal of the designated premises supervisor from the licence;
- The suspension of the licence;
- The revocation the licence.

6.4 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.

7 Risk Management

- 7.1 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.

8 Financial and legal implications

- 8.1 There are no direct financial requirements at this time.
- 8.2 This hearing is regulated by The Licensing Act 2003 (Hearings) Regulations 2005 (as amended).
- 8.3 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.

9. Recommendations

- 9.1 That the Licensing Hearing Panel, having regard to Licensing Act 2003, the statutory guidance issued under S182 of the Act, the Council's Statement of Licensing Policy and all matters before it, both written and oral, considers and determines this application to review the premises licence. The steps that the licensing authority may consider taking are outlined in paragraph 6.

Lead officer contact

Franco De Fazio, Senior Licensing Officer
Telephone: 01474 337450 Email: franco.defazio@gravesham.gov.uk

Appendices

Appendix A – Certificate
Appendix B - Application for Summary Review
Appendix C – Decision notice from Expedited review
Appendix D – Premises Licence
Appendix E – Representations in support of the premises

Background papers

None