

Licensing Hearing Panel

23 July 2024

Licensing Act 2003 Application for Review of a Premises Licence, Jade Garden, 43 High Street, Chatham, Kent ME4 4EN

Report from: Bhupinder Gill, Assistant Director – Legal and Governance

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Summary

In accordance with Section 51 of the Licensing Act 2003, the Council has received an application from Home Office Immigration Enforcement, as a responsible authority, for a review of the existing premises licence in respect of the Jade Garden, 43 High Street, Chatham, Kent ME4 4EN.

1. Recommendations

- 1.1. That the Licensing Hearing Panel, having regard to the 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 and determines this application to review the premises licence.

2. Budget and policy framework

- 2.1. Medway Council has published its Statement of Licensing Policy, which it takes into account in all applications relating to the Licensing Act 2003.

3. Background

- 3.1. The premises currently operates by way of a premises licence granted in accordance with the Licensing Act 2003. This licence permits the sale by retail of alcohol and late night refreshment. A copy of which can be found at **Appendix A**.
- 3.2. An application for review was received from Home Office Immigration Enforcement, as a responsible authority, on 10 June 2024.
- 3.3. The review relates to the Licensing Objective, Prevention of Crime and Disorder.
- 3.4. A copy of the application from Immigration can be found at **Appendix B**.

- 3.5. A copy of the supporting documentation can be found at **Appendix C**.
- 3.6. A copy of the supporting evidence (which forms the appendices to Appendix C) and which will be for the attention of the panel, the licence holder and the Home Office only, can be found at **Exempt Appendix D**.
- 3.7. I can confirm that the application has been correctly advertised in accordance with the regulations.

4. Options

- 4.1. The Home Office, in their application, are requesting that the panel seriously consider the revocation of this licence due to the serious nature of the offences.
- 4.2. The Licensing Hearing Panel is asked to consider the information in this report and take any of the following steps considered necessary to promote the licensing objectives of the Act.
 - a) Modify the conditions on the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example by reducing the operating hours or by requiring door supervisors at particular times.
 - b) Exclude a licensable activity from the scope of the licence, for example to exclude Late Night Refreshment.
 - c) Remove the current designated premises supervisor.
 - d) Suspend the licence for a period not exceeding 3 months, in order to carry out works to improve the premises.
 - e) Revoke the licence.
 - f) Dismiss the review application.

5. Advice and analysis

- 5.1. 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.”

5.2. The licensee is expected to demonstrate that they deal with and understand the promotion of the four licensing objectives.

5.3. The four licensing objectives are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children and harm

6. Risk management

6.1. 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.

7. Consultation

7.1. The application has been correctly advertised by way of the display of notices at the premises and 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.

8. Financial implications

8.1. There are no direct financial requirements at this time.

9. Legal implications

9.1. This hearing is regulated by The Licensing Act 2003 (Hearings) Regulations 2005 (as amended).

9.2. 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.

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Appendices

- Appendix A – Copy of Premises Licence
- Appendix B - Immigration Enforcement Application for Review
- Appendix C – Supporting documentation
- Exempt Appendix D – Supporting Evidence

Background papers

None