

Licensing Panel

Friday, 10 December 2021

10.00 am

Present:

Cllr Steve Thompson (Chair)

Councillors: Derek Ashenden
John Caller

Emily Lane-Blackwell	Senior Licensing Officer
Vicky Nutley	Senior Legal Advisor
PC Daniel Hunt	Kent Police Licensing Officer
PC Andre Smuts	Kent Police Licensing Officer
Mr Irfan Erdogan	Applicant
Julie Francis-Beard	Committee Services Officer (Minutes)

33. Apologies for absence

No apologies for absence were received.

34. To declare any interest Members may have in the applications being considered. When declaring an interest a Member must state what their interest is.

No declarations of interest were made.

35. Consideration of application for a variation to a premises licence for Rainbow, 68 New Road, Gravesend, Kent DA11 0AE

The Licensing Panel were asked to consider an application for a variation of the premises licence for Rainbow, 68 New Road, Gravesend, Kent DA11 0AE.

The Chair welcomed everyone to the meeting and went through the process he intended to follow. The Chair explained that once everyone had made their submissions and all questions had been answered, the hearing would close to all parties except for the Panel, their legal advisor and the Committee Services Officer (for minute writing purposes only) for the panel to consider their decision.

The Licensing Act 2003 required the Council (as licensing authority) to carry out its various functions so as to promote the following four licensing objectives:

- the prevention of crime and disorder
- the protection of public safety
- the prevention of public nuisance
- the protection of children from harm

The Senior Licensing Officer explained the application was for a variation to the existing premises licence which was received on 17 September 2021 from the applicant. The variation is to include off sales of alcohol for online ordering only. On 15 November the Licensing Team received an objection from Kent Police Licensing Team.

The applicant addressed the Panel and outlined the reasons for the variation application including the impact COVID has had to his business. Currently 80-90% of the business is take-away and although the current licence states he can remain open until 3.30am the applicant has been closing the premises by 1.30am. The variation to the licence would allow the off sales of alcohol for online ordering only.

The Chair opened the hearing to questions from Councillors; the below responses were received from the applicant:

- When ordering alcohol online and to check whether the recipient is over 18, the delivery driver will check the name of the person who ordered the delivery against the name on the card that paid for the order before handing over the delivery. If the recipient looks underage, they will be asked to prove they are over 18 years of age before handing over the delivery.
- Only wine, beer and cider will be sold not high unit alcohol e.g. whisky or vodka.
- Only online alcohol purchases will be sold and they have to be delivered to the delivery address household. No one will be able to purchase alcohol on the licenced premises and be handed the alcohol over the counter.
- Following on from a question about door supervisors and why this was included in the original premises licence the applicant explained that he was not sure why this was included originally and would like over time to have this removed.
- The Chair asked the applicant if they had taken any legal advice before putting in this variation and the applicant confirmed he had not.
- The Chair explained to the Panel and applicant that the applicant had applied for a licence to sell low-alcohol. The legal definition for low-alcohol beverages is alcohol must be 1.2% abv or less. The applicant was not aware of the percentage of low alcohol.
- The Chair explained that the Panel could not agree to a licence variation if it says “to add the sales of low-alcohol by online ordering only” if the applicant was planning on selling wine, beer and cider as the abv is much higher. The applicant agreed to remove the wording low-alcohol from the variation and would, if agreed, sell wine, beer and cider online.
- The Chair discussed the fact that under the Licensing Act if you sell alcohol you have to have a designated premises supervisor (DPS) The DPS information should have been included in the Agenda Pack and the Senior Licensing Officer apologised this was not the case. She was able to confirm that the applicant would also be the DPS for the premises.
- The applicant explained that ordering alcohol will only be accepted online and they will be using Just Eat and Uber Eat ordering platform but the applicant’s own staff will be undertaking the deliveries.
- The Chair discussed with the applicant about underage sales. The applicant explained the delivery would be made by a family member and if the customer looked underage whoever was delivering would always ask for ID.

The Chair allowed questions from the Kent Police Licensing Officer to the applicant; the below responses were received from the applicant:

- The applicant agreed to sell beer and cider 5% abv or less and wine 12% abv or less.
- The Kent Police Licensing Officer explained they did have sympathy with the applicant during this difficult time and if the applicant had wished to have conditions removed from their licence why had they not submitted an application to the council or contact the Kent Police Licensing Team before now. The applicant said it was very difficult to find the correct person and speak to them face to face.
- The Chair asked the Kent Police Licensing Team once they knew the applicant had attempted to change the conditions, did they make contact with the applicant to discuss the changes before submitting their objections. Kent Police Licensing Team explained they had not.
- The Chair asked the applicant if they would consider only ordering alcohol if they were ordering food as well. The applicant agreed to this.

The objector addressed the Panel and explained their objections to the application. There had been previous visits and incidents where the premises licence had been breached. A lack of door supervisors had been observed at various times.

The Chair opened the Panel to questions from Councillors; the below responses were received from the objector:

- The Chair asked the Kent Police Licensing Officer if the applicant had not applied for this variation would the Kent Police Licensing Team have asked for a review in light of all these incidents. The Kent Police Licensing Officer explained that they would not have done.

The Chair moved onto final submissions and indicated to the Panel that they were to consider the variation of the licence to include off-sales of alcohol for online ordering only. The applicant and objector then had five minutes to address the Panel.

The applicant addressed the Panel.

The objector addressed the Panel.

The meeting adjourned at 11.10am.

The meeting re-adjourned at 1pm.

Determination

The Chair advised that, in coming to their decision, the Panel considered the submission from the applicant and the objector, the Licensing Act and policies and have decided to **APPROVE** the application but with 22 imposed conditions on the licence. Conditions 1 – 9 are the current conditions with Condition 6 being amended.

1. Bins are provided to the exterior of the premises to allow clients to dispose of rubbish.
2. CCTV must be installed at the premises and working at the premises to the satisfaction of the police and council in accordance with the Code of Practice issued by the Information Commissioners Office. Recordings are to be maintained for at least 31 days. If the equipment fails, the police and the council must be informed as soon as possible and immediate steps taken to put the equipment back into service.

3. At all times whilst trading there must be a person able to operate the CCTV equipment and be able to view the recorded information held within the equipment be able to view the recorded information held within the equipment and upon reasonable request be able to give an authorised officer from the police or council a copy of the recording under and in accordance with the Data Protection Act 1990.
4. Notices are to be placed and displayed on the door and tills advising that CCTV is in operation.
5. When the premises are open for trading after 23:00 hours, the premises licence holder will clearly identify a person who is accountable for the business. This person will be present in the premises until the business closes for trade.
6. **Revised Condition:** At all times when trading after 23:00 hours, two SIA qualified Licensed Door Supervisors must be present. One of these is to be dedicated to the role and not working in any other capacity. They are both to remain on the premises until the premises are closed to the public. Door Supervisors must ensure that their badges are being worn and displayed whilst working and wear reflective clothing that can be easily and clearly identifiable on CCTV.
7. A notice should be provided informing the public that food is not to be consumed in taxis.
8. Prominent clear and legible notices will be displayed at the exits asking customers to respect the needs of local residents and to leave the premises and area quietly.
9. An incident book is to be maintained at all times and any incident relating to crime and disorder reported to the Police immediately.
10. The DPS and any person who will deliver alcohol to undertake refresher training in relation to the Licensing Act 2003 within 3 months of the grant of this application and thereafter 3 yearly intervals. A record of such training is to be maintained on the premises and made available for inspection by any authorised person upon demand.
11. No advertising or mention of alcohol is permitted on the premises or within a 300-meter radius of the property.
12. No alcohol is permitted to be on display within the premises.
13. Alcohol sales must only take place via an order for supply placed via the internet and this order must not be actioned in the premises.
14. Alcohol orders are restricted to the hours of 11am to 12.30am with all deliveries of alcohol being completed by 1am.
15. Alcohol deliveries are to be ancillary to the delivery of a substantial food order
16. No sale of any alcohol beverage other than beer, lager, cider or wine is to take place.
17. No sale of beer, lager or cider that exceeds an ABV of 5% is permitted.
18. No sale of wine that exceed an ABV of 14% is permitted.
19. A Challenge 25 Policy at the point of delivery will be carried out by the person delivering alcohol.
20. Alcohol must only be supplied by means of delivery. No supply of alcohol to be made to persons visiting the premises.
21. Any person carrying out a delivery of alcohol under this licence must be at least 18 years of age and must have undertaken training in respect of the Licensing Act 2003 and that record of training to be included in the training register.
22. Record of any refusal to deliver in relation to the person being underage or being intoxicated is to be maintained on the premises and must be updated within 1hr of such refusal and be made available for inspection by any authorised officer upon demand.

Any failure to apply these conditions would be considered a very serious breach of the licence and if these premises continued to breach any of their conditions the council would expect Kent Police to request a review.

Close of meeting

The meeting ended at 1.20 pm