

Licensing Panel

Monday, 09 May 2022

10:00am

Present:

Cllr Steve Thompson (Chair)

Councillors: Frank Wardle
Leslie Pearton

Please note: Cllr Lyn Milner and Cllr Lee Croton were also in attendance.

Lisa Hopson	Licensing Officer
Kalatharan Kandiah	Applicant
Gill Sherret	Applicant Agent, Licensing Matters
Matthew Card	Environment Health Technician
Venky Krishnan	Legal Advisor to the Panel
Cllr Rolles	Ward Councillor – Objector
Tom O’Keefe	Public Objector
Ben Clarke	Committee Services Officer (Minutes)

1. Apologies for absence

An apology for absence was received from Cllr John Caller; Cllr Leslie Pearton substituted

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

Cllr Steve Thompson declared a non-prejudicial interest as he worked with the partner of one of the objectors at the same charity however the partners objector was not in Cllr Thompsons line of management and thus, Cllr Thompson was able to continue as Chair of the meeting.

Cllr Steve Thompson declared an interest as he was a Ward Councillor for Central Ward which was adjacent to the ward that the premises resided in. Prior to the pandemic, Cllr Thompson led a Twitter campaign against a licensed premises opposite the Milton Convenience Store on behalf of local residents complaining of anti-social behaviour. The campaign resulted in a lot of press coverage and meetings with the Chief Executive and senior figures in Kent Police.

3. Consideration of an application for a new premises licence for Milton Convenience Store, 29-30 Milton Road, Gravesend, Kent DA12 2RF

The Licensing Panel were asked to consider an application for a new premises licence for Milton Convenience Store, 29-30 Milton Road, Gravesend, Kent DA12 2RF.

The Chair welcomed everyone to the meeting and went through the process he intended to follow. He 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, the legal advisor to the Panel and the Committee Services Officer (for minutes writing purposes only) for the panel to consider their decision.

The Licensing Officer gave a brief overview of the application and background information to the Panel.

The applicants original application sought the following change to their licensable hours:

Sale by retail of alcohol

- Monday to Sunday 00:00 to 00:00
- Late Night Refreshment
- Monday to Sunday 23:00 to 00:00

During the 28 day consultation period, representations were received from Environmental Health, Kent Police, Ward Councillors, the Gravesham Free & Safe Environment Co-ordinator and six public objections; the details of those representations could be found in Appendices 4-8 of the report.

On the 28th March 2022 Kent Police submitted an objection but after liaising with the Applicant's Agent, they came to an agreement regarding the permitted licensing hours to sell alcohol and proposed licensing conditions and the Police withdrew their representation. Licensing required clarity on condition 8 and following discussions, the condition was amended in agreement with Kent Police and the Licensing Agent. A copy of Kent Polices original objection, their agreement to the proposed licensing conditions and the amended condition 8, could be found at Appendix 5.

The Applicants Agent addressed the Panel and summarised why the applicant should be granted the new premise licence and addressed each objection which had been presented to the Panel in turn.

The Chair opened the Panel to allow questions from Councillors; the below responses were received from the Applicants Agent:

- There were two CCTV cameras outside the premises
- There was no evidence of any anti-social behaviour inside or outside the premises
- It was agreed with the Police that sale of alcohol and late night refreshments would end at 02:00 hours, however the premises would still be able to remain open 24 hours for non-licensable activities if the applicant desired
- The planning regulations did not require that a specific area of the premises floor plan be highlighted to show where the alcohol would be sold from
- An additional member of staff would be employed alongside the three staff members as part of the normal staff rota
- The applicant would not be amenable to the condition that all staff members must be personal licence holders due to the additional cost, onerous process of applying for

licence for staff and the increase to being in breach of the licence if one of the staff members was not in the premises

- The applicants partnership with Costcutter was for the provision and delivery of goods; being part of the Costcutter franchise meant that the applicant and his staff had access to the training and support services offered by Costcutter
- The applicant had worked in the premise since 2010 which gave him a good sense of the local area and knowledge of any potential anti-social behaviour, but the applicant maintained that no anti-social behaviour occurred in the premises or outside the premises
- Over the last ten years, the premises licence had authorised the sale of alcohol Monday to Sunday 06:00 to 23:00 and the opening hours of the premises was Monday to Sunday 06:00 to 00:00
- It was the applicants responsibility to ensure there weren't any licence breaches in or immediately outside his premises but, in his opinion, he was not responsible for someone buying alcohol from his premises and causing anti-social behaviour a significant distance away from his premises
- Two of the objectors were licensees, one for a pub and another a nearby off licence which could be vexatious. There was also no corroborating evidence submitted for the objection submitted by the Gravesham Free & Safe Environment Co-ordinator
- The night hatch was installed roughly eighteen months ago; Cllr Thompson asked that the Applicant check his planning conditions to see if the installation of the night hatch was legal but assured the Applicant that any planning conditions wouldn't factor into the determination of the panel

Cllr Rolles and Mr Tom O'Keefe, who had submitted representations, were in attendance and Cllr Thompson asked Cllr Rolles, as Ward Councillor, to address the Panel regarding his representation.

Cllr Rolles advised that he was addressing the Panel on behalf of his fellow Ward Councillors and his wards residents.

Before allowing Cllr Rolles to answer the Panel Members questions, the Chair asked that Cllr Rolles stick to known facts and not hearsay:

- Incidents of anti-social behaviour were raised on Twitter and had been highlighted to Cllr Rolles by residents; Cllr Rolles had also attended meetings with the CSU and local residents to discuss street drinking issues in the area on many occasions. Local residents often recounted stories of anti-social behaviour at Members ward surgeries and they all reported incidents after the normal licensing hours that were expected from a premise such as a pub
- Cllr Rolles was unable to present any Police data on alleged incidents of anti-social behaviour
- Cllr Rolles explained that the nearby location of the Clocktower was an important reference as many street drinkers congregated around that location and it was near to the premises; Cllr Rolles advised that, in his opinion, if the new premise licence was granted it would exasperate the current issues with public nuisance and street drinking in that area to the detriment of local residents
- The applicant stated that there weren't any incidents of anti-social behaviour outside the premises, but Cllr Rolles believed that there were cases of anti-social behaviour outside and near the premises

- There were concerns that local children's sleep would be further disturbed by street drinkers noise and the area would become more dangerous for local residents to walk through at night
- Cllr Rolles had no concerns that the applicant would sell alcohol to underage customers

The Chair asked Mr Tom O'Keefe to address the Panel regarding his objection.

Mr O'Keefe raised an issue concerning Central Ward residents and the Chair adjourned the meeting to confer with the Legal Advisor to the Panel.

Cllr Thompson readjoined the meeting and declared the following interest:

Cllr Steve Thompson declared an interest as he was a Ward Councillor for Central Ward which was adjacent to the ward that the premises resided in. Prior to the pandemic, Cllr Thompson led a Twitter campaign against a licensed premises opposite the Milton Convenience Store on behalf of local residents complaining of anti-social behaviour. The campaign resulted in a lot of press coverage and meetings with the Chief Executive and senior figures in Kent Police.

It was Cllr Thompsons opinion that was able to consider the application impartially and asked the applicant if he was comfortable with Cllr Thompson remaining to be the Chair for the duration of the meeting or if he would prefer he vacated the Chair and allowed another Panel Member to preside.

Following deliberation between the Applicant and the Applicants Agent and several questions answered by Cllr Thompson regarding the Twitter campaign, Cllr Thompson was given permission to remain as Chair for the duration of the meeting.

There were no further questions to Cllr Rolles or Mr Tom O'Keefe by any parties.

The Environmental Health Technician addressed the Panel and outlined his departments concerns with regard to the new Premises Licence.

The Environmental Health Technician answered the Panels questions:

- No dates, times or evidence of the historical alleged anti-social behaviour incidents in or outside the premises were able to be presented to the Panel for consideration

The Chair advised that he was disappointed with the lack of evidence presented as hearsay of historical alleged incidents at the premises from the CSU and Environmental Health were not helpful to the Panels determination.

The Chair thanked all parties for their presentations and prior to summaries, he asked the Applicants Agent if the Applicant would be amenable to any of the licensed conditions that were suggested during the course of the meeting:

- The authorisation of sale of alcohol Monday to Sunday 06:00am to 01:00am
- Hiring an SIA licensed security officer at the premises from 12:00am to 02:00am

The applicants agent advised that the suggested licence conditions were not agreeable to the applicant.

The Chair allowed both parties to sum up their arguments to the Panel.

The Chair informed all parties that a written decision would be sent to them within five working days.

The meeting adjourned at 11:34am to deliberate.

The meeting re-convened at 12:37pm.

Determination

The Chair advised that, in coming to their decision, the Panel had considered all of the information provided in the report by the Licensing Manager; the evidence and testimony presented by all parties attending the Panel; the advice of the Panels Legal Advisor; the Council's Statement of Licensing Policy; the statutory guidance of the Secretary of State and the promotion of the four licensing objectives.

Having considered all those matters and advice given, the Panel decided to grant the application for a new premises licence as agreed through negotiations with Kent Police but with the following amendments:

- Condition 8 and the amended condition 8 to be deleted and replaced with the following:
 - - Between the hours of 00:00am and 02:00am, there will be two members of staff present at the premises and the front door is to remain closed but unlocked to allow for entrance and ingress. No alcohol is to be supplied through the night hatch and all alcohol is to be supplied through the licensed area of the premises as per the floor plan required in licensing condition ten
- Condition 10 will remain on the licence, but it was not currently being fulfilled; the Panel asked that the floorplan specify which shelving units within the premises would hold the alcohol. The floorplan then had to be submitted to the Licensing Team for their records prior to verification of the new premise licence coming into effect
- Condition 16 to be added to the licence; Outside of alcohol licenced house, alcohol must not be on display to the public

The Chair advised that the Panel were concerned about the night hatch and the previously agreed condition with Kent Police which would have meant that customers queued outside the premises during 00:00am to 02:00am and did not protect the public from noise disturbance and crime & disorder.

The applicants agent raised several questions of clarification which were answered by the Panel.

The Chair reiterated that the Panel was disappointed in the quality of submissions from Kent Police and the Environmental Health Team; both submissions relied on not seeking to substantiate the facts submitted. In the future, the Chair requested that any cases of anti-social behaviour presented to the Panel be submitted with evidence to back up the incidents.

The Chair advised the Applicant that the granting of the Premise Licence was similar to a pilot scheme and if he wanted anything else in the future then the Panel would expect to see a premise licence variation application but if the licence conditions were not met then the Applicant should expect to see a review of his Premises Licence.

The full list of licencing conditions were as follows:

1. On first appointment, all staff employed at the premises will receive training on the Licensing Act 2003 including input on preventing underage sales, preventing sales of alcohol to people who are drunk, conflict management and any other relevant matters. Training shall be regularly refreshed at no less than annual intervals. The training must be recorded and be accessible on the premises and made available for inspection upon request of a Police Officer or an authorised officer of the licensing authority or (in the case of online training) within 48 hours.
2. 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 record all ingress and egress to the premises, fire exits and all areas where the sale and supply of alcohol occurs. Equipment must be maintained in good working order, with recordings correctly time and date stamped. Recordings MUST be kept in date order, kept for a period of 31 days and handed to police and authorised officers on demand.

The premises licence holder must ensure at all times a DPS or appointed member of staff are on the premises and are capable and competent at downloading CCTV footage in a recordable format to the police and local authority subject to DPA, however within 48 hours.

The recording equipment and discs/tapes shall be kept in a secure environment under the control of the DPS or other responsible named individual. An operational daily log report must be maintained and endorsed by signature, indicating the system has been checked and is compliant. In the event of any failures, any action taken is to be recorded.

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 within 24 hours unless the CCTV is repaired within that time (licensing.north.division@kent.police.uk).

3. An incident register will be maintained at the premises and made available to the authorities on request.
4. A register of refusals of alcohol will be maintained at the premises. The register will be made available for inspection by the Police and other responsible authorities.
5. The premises will adopt a 'Challenge 25' policy. This means that if a customer purchasing alcohol appears to be under the age of 25, they will be asked for proof of their age, to prove that they are 18 years or older.
6. Posters will be on display advising customers of the 'Challenge 25' policy.

7. The only forms of identification that will be accepted at the premises are a passport, UK photo-card driving licences, military ID & cards bearing the 'PASS' hologram.
8. Between the hours of 00:00am and 02:00am, there will be two members of staff present at the premises and the front door is to remain closed but unlocked to allow for entrance and ingress. No alcohol is to be supplied through the night hatch and all alcohol is to be supplied through the licensed area of the premises as per the floor plan required in licensing condition ten
9. An authorisation form detailing all staff who are authorised by the DPS to make sales of alcohol to the public will be prominently displayed in the premises at all times that alcohol is being sold.
10. All alcohol is to be displayed on suitable shelving as indicated on the plan and NOT on the floor.
11. At no time is alcohol to be displayed near to the entrance or exit doors.
12. All surplus supplies of alcohol are to be stored in a locked stockroom.
13. No beer, lager, cider, perry or spirit mixer above 7.5% will be sold at the premises.
14. A 'clear glazing' policy for the window at the front of the shop shall be kept above 1 metre and below 2 meters (measured from the shop floor) so staff have an unobstructed view of the area outside the front of the premises through the glass looking into the street. The exception to this shall be the display of notices required by law and any required as a condition of this licence.
15. The venue will actively participate in the any local crime reduction or equivalent scheme, such as GSafe. Any radios provided through such a scheme will be monitored by a responsible member of staff. This condition will not apply if the scheme does not operate effectively.
16. Outside of alcohol licenced hours, alcohol must not be on display to the public

Close of meeting

The meeting ended at 12:45pm.