

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Licensing Committee
Date: 5 November 2019
Reporting officer: Regulatory Services Manager/Licensing Manager
Subject: Licensing Panel Hearings

Purpose and summary of report:

1. To update Members on Licensing Panel hearings that have taken place since the last Licensing Committee meeting on 16 September.

Recommendations:

1. Members to note the content of the report.
- 1. 30 September 2019 - New premises licence application for Café Lounge, 7 The Parade, Wrotham Road, Meopham**

- 1.1 An application for a new premises licence at 7 The Parade, Wrotham Road, Meopham was received on 22 August 2019
- 1.2 This premises, known as Café Lounge, was already an established café selling food and drink between 07.00 and 17.00 Monday to Friday, 07.30 and 17.00 on Saturdays and 08:00 and 17:00 on Sundays.

- 1.3 The application was for sale by retail of alcohol on the premises between:

1.3.1 11:30 and 23:00 Monday to Saturday, and

1.3.2 12:00 and 23:00 on Sundays

With the proposed opening hours being:

1.3.3 07:00 to midnight Monday to Friday

1.3.4 06:30 to 23:30 on Saturdays, and

1.3.5 08:00 to 23:00 on Sundays

And included a comprehensive suite of suitable and well-written proposed conditions to promote the licensing objectives.

- 1.4 During the statutory 28-day consultation period:
- 1.4.1 Kent Fire and Rescue wrote to the applicant to confirm that they were not going to submit any representations to the Licensing Authority. They did however take the opportunity to provide the applicant with some useful general advice and guidance in relation to their fire safety responsibilities.
- 1.4.2 Environmental Health liaised with the applicant to express their concerns about noise nuisance being caused and the risk to the prevention of public nuisance licensing objective. Officers asked the applicant if they would be agreeable to amending their application by:
- 1.4.2.1 Reducing the opening hours to 07:00 to 22:00 Sunday to Thursday, and 07:00 to 23:00 on Fridays and Saturdays
- Reducing the hours for the supply of alcohol to 11:30 to 21:30 Sunday to Thursday, and 11:30 – 22:30 on Fridays and Saturdays
- 1.4.2.2 Including the following condition to ensure the premises operates as a food-based business rather than a typical bar:
- 'All sales of alcohol will be to customers who are purchasing a sit-down meal. The consumption of alcohol must be ancillary to the sit-down meal they have purchased.'*
- The applicant confirmed they were agreeable to these proposals and amended their application accordingly. Environmental Health consequently did not object to the application.
- 1.4.3 No other representations were received from the responsible authorities.
- 1.4.4 One valid objection was received from a member of the public.
- 1.5 The objection related to the public safety licensing objective and the perceived adverse impact that additional parking resulting from the proposed licence would have:
- "Parking at The Parade is already a huge public safety issue. Granting a licence will extend the dwell time of customers throughout the day and night, and can only add to the amount of illegal parking which becomes a life-threatening issue for others."*
- 1.6 The matter was heard by the Licensing Panel on 30 September 2019 and the decision of the Panel was to grant the licence as amended following discussions with Environmental Health but with the additional agreement that alcohol would not be taken off the premises regardless of whether it is in an open container.
- 1.7 The full minutes can be viewed on the council's website at <http://democracy.gravesham.gov.uk/ieListDocuments.aspx?CId=125&MId=4287&Ver=4>

2. 1 October 2019 - Review of Silk Bar, 1-2 Parrock Street, Gravesend

- 2.1 Prior to the last meeting of the Licensing Committee, an expedited review hearing was held on 5 September in relation to Silk Bar.
- 2.2 The expedited review application was received from Kent Police on 3 September following a violent incident that took place at the premises on the night of 30 September during which multiple, serious breaches of the premises licence and failures to promote the licensing objectives were identified on CCTV obtained by the police following their routine investigations.
- 2.3 Due to the seriousness of the situation, upon considering all relevant information, the Panel suspended the premises licence with immediate effect as an 'interim step' pending the outcome of a full review hearing that would have to be held within the following 28 days.
- 2.4 The full minutes relating to the expedited review can be viewed on the council's website at <http://democracy.gravesham.gov.uk/ieListDocuments.aspx?CId=125&MId=4278&Ver=4>
- 2.5 Between the expedited review hearing and full review hearing:
 - 2.5.1 Kent Police submitted additional evidence relating to failings in promoting the prevention of crime and disorder, prevention of public nuisance, and public safety licensing objectives.
 - 2.5.2 Environmental Health submitted evidence regarding failings in promoting the prevention of public nuisance licensing objective.
 - 2.5.3 Officers from Regulatory Services/Environmental Health and Kent Police subsequently actively engaged with the, then, premises licence holder, other management, and their Barristers to try to facilitate an amicable way forward. Discussions were productive and resulted in the licence holders' Barristers proposing a suite of new and revised conditions and operating hours aimed at addressing the concerns raised by the responsible authorities for consideration by the Licensing Panel.
 - 2.5.4 The premises licence was transferred to a business partner, Mr Brian Nixon.
 - 2.5.5 A comprehensive representation was also submitted by the licence holders' Barristers containing a huge number of letters/emails from local residents, employees, customers and professionals in support of the Silk Bar.
- 2.6 The full review took place on 1 October and was extremely well attended.
- 2.7 Environmental Health summarised the content of their representation but advised the Panel that they felt that the proposals put forward by the licence holders' Barristers were positive and could, if agreed by the Panel, suitably mitigate the risks to the promotion of public nuisance objective.
- 2.8 Kent Police summarised their representations and were also generally supportive of the proposals put forward by the licence holders' Barristers, with the exception

of the proposed licensing hours, which they felt should be further reduced such that the premises would cease trading and close at 01:00 on Friday and Saturday nights, instead of 03:00 as proposed by the defendant.

- 2.9 The argument put forward by Silk Bar's Barrister, Mr Gary Grant, hinged on two main factors:
- 2.9.1 That Silk Bar was an important and integral part of Gravesham's night time economy; welcomed, wanted, relied upon and heavily supported by a significant cross-section of local people
 - 2.9.2 That the failings to date were solely caused by bad management and that replacing bad management with good management (ensured by way of transferring the licence and having conditions excluding the previous licence holder from being involved with the running of the business), coupled with the other submitted proposals, should therefore resolve the issues in their entirety
- 2.10 The Panel also heard from the new licence holder, several members of the public, the Area Manager for Professional Security UK, who would provide security at the premise should their licence be reinstated, and an Independent Crime Consultant; all in support of Silk Bar.
- 2.11 Having considered all relevant information, the Panel found the root cause of the problems to be poor management. The decision was therefore made to lift the suspension on the Premises Licence with immediate effect and accept the proposed conditions and opening hours, subject to further conditions aimed at ensuring the previous licence holder could not be involved within the management of the premises in future.
- 2.12 The full minutes can be viewed on the council's website at <http://democracy.gravesham.gov.uk/ieListDocuments.aspx?CId=125&MId=4281&Ver=4>

3. Recommendations

- 3.1 That Members note the content of the report.

4. BACKGROUND PAPERS

- 4.1 None. Anyone wishing to inspect background papers should be directed to Committee & Electoral Services who will make the necessary arrangements.

IMPLICATIONS

APPENDIX 1

Legal	The Licensing Act 2003 is the relevant primary legislation relating to the matters set out in this report.
Finance and Value for Money	There are no direct financial implications for Gravesham Borough Council concerning this report, which is for information only. Members should however be aware that anyone aggrieved by a decision made by the Licensing Panel could appeal that decision to the Magistrates' Court which can have cost implications.
Risk Assessment	Departure from Statutory Guidance or Policy, or any decision that is not based on evidence, proportionate and justifiable, could lead to an increased risk of appeal.
Data Protection Impact Assessment	<i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i>
	a. Does the project/change being recommended through this paper involve the processing of personal data or special category data or criminal offence data ? A definition of each type of data can be found on the Information Commissioner's Office website via the above links. No
	b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? N/A
	c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at gdpr@medway.gov.uk . N/A
Equality Impact Assessment	a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No
	b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. No
	<i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i>
Corporate Plan	Objective 1: People - <i>a proud community; where residents can call a safe, clean and attractive borough their home.</i> Commitment: Enforce high regulatory standards: put customer and employee safety first by ensuring commercial businesses and licence holders are fully compliant with expected legislative standards.
Crime and Disorder	There are obvious links to community safety and the perception of crime and disorder if licensed premises, particularly those that supply alcohol are not managed properly and adequately enforced.
Digital and website implications	N/A

Safeguarding children and vulnerable adults	The prevention of children from harm and prevention of crime and disorder are two of the four licensing objectives that fundamentally underpin the Licensing Act 2003.
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