

**Classification:** Private

**Key Decision:** No

## **Gravesham Borough Council**

**Report to:** Licensing Panel

**Date:** 8 November 2021

**Reporting officer:** Emily Lane-Blackwell

**Subject:** The Kings Head, King Street, Gravesend, Kent DA12 2EB

### **Purpose and summary of report:**

To consider the the application for a review of the premises licence for The Kings Head, King Street, Gravesend, Kent DA12 2EB

### **Recommendations:**

1. Members are requested to determine this review on its merits

## **1. Introduction**

- 1.1 The Licensing Act 2003 (the 2003 Act) requires the Council (as licensing authority) to carry out its various functions so as to promote the following four licensing objectives:
  - 1.1.1 The prevention of crime and disorder
  - 1.1.2 The protection of public safety
  - 1.1.3 The prevention of public nuisance
  - 1.1.4 The protection of children from harm
- 1.2 The 2003 Act requires the council to publish a 'Statement of Licensing Policy' that sets out the policies the council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The council adopted its Statement of Licensing Policy on 20 December 2004. As required by section 5 of the Act this policy has been subject to three yearly revisions with the current policy set to expire on 15 April 2024. The Policy will be available at the meeting for reference purposes.
- 1.3 Under the 2003 Act, it is the duty of all licensing authorities that, in carrying out their functions, they must have regard to guidance issued by the Secretary of State under section 182. The Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Provided that the licensing authority has properly understood and considered the Guidance, it may depart from it when it

has reason to do so. However, as the licensing authority is under a duty to have regard to the Guidance, it will need to give full reasons for any departure from it. This would be a key consideration for the courts should departure from the Guidance result in a determination which gives rise to an appeal or judicial review. The Guidance will be available at the meeting for reference purposes.

- 1.4 A copy of the council's approved procedure for hearings of the Panel in relation to an application, along with a copy of the Hearing regulations has been circulated to all parties prior to the meeting.
- 1.5 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 disorder, or both.

The Act requires expedited premises licence review applications to be considered within 48 hours, pending a full hearing of the issues within 28 days of the date that the application was served.

## **2. Background**

- 2.1 The current premises Licence for The Kings Head, King Street, Gravesend, Kent DA12 2EB is held by Mr Ismail Sucu.
- 2.2 A copy of the current licence can be seen as Appendix 2

## **3. The Review Application**

- 3.1 On 13 October 2021 the council received an application from Kent Police for an expedited review of the premises licence in respect of Kings Head, King Street, Gravesend, Kent DA12 2EB as they consider it necessary to take interim steps pending determination of the review of the premises licence.
- 3.2 A copy of the basic application can be seen as Appendix 3.
- 3.3 A copy of the required certificate can be seen as Appendix 4.

## **4. Expedited Review Hearing**

- 4.1 A hearing was held on 15 October 2021, where the licensing panel reviewed the papers submitted by Kent Police and their supporting evidence.
- 4.2 The panel made the decision to suspend the premises licence with immediate effect.
- 4.3 A copy of the decision notice sent to the Premises Licence holder can be seen as Appendix 5.

## **5. Representation from the premises licence holder**

- 5.1 A representation was received on 22 October 2021, from the premises licence holder Mr Ismail Sucu and his lawyer Mr Jon Payne.
- 5.2 The representation can be found as Appendix 6.

## **6. Hearing following a representation to interim steps**

- 6.1 A hearing was held on 25 October 2021. Kent Police, the licence holder and his representation attended the hearing and presented their evidence.
- 6.2 The panel made the decision to re-instate the premises licence with the following amendments:
  - 6.2.1 The licensable activities will stop at 11.30pm with the premises closed by midnight until we hear a full hearing.
  - 6.2.2 A new Designated Premises Supervisor must be appointed and the application to be received by the licensing authority within 3 working days from the date of the hearing.
- 6.3 A copy of the decision notice can be found as Appendix 7

## **7. Variation to the premises licence to specify the designated premises supervisor.**

- 7.1 An application to vary the designated premises supervisor (DPS) was received on 28 October 2021, as required by point 6.2.2.
- 7.2 On the application form the relevant box was ticked to implement the change of DPS immediately. The application has to go through a consultation period of 14 days, where Kent Police are consulted.
- 7.3 Therefore at the time of writing this report the name of the current DPS doesn't currently match the copy of the licence in Appendix 2
- 7.4 The new DPS is Clair Jane Rawson.

## **8. Consultation period**

- 8.1 It is a requirement of the Licensing Act 2003, that the licensing authority advertise the review inviting representations from any person for no less than seven consecutive days. A notice was displayed outside the Civic Centre, on the Gravesham Borough Council website and at the premises for 12 clear days.
- 8.2 During this period the licensing authority received 14 valid representations of support for the premises. These can be found as Appendix 8.

## **9. Decision**

- 9.1 At the hearing the panel must:
  - 9.1.1 Consider what steps it considers appropriate for the promotion of the licensing objectives; and
  - 9.1.2 Decide which interim steps cease to have effect altogether or become the subject of any steps which it considers are appropriate when making its determination on the review.
- 9.2 The steps the panel can take are:
  - 9.2.1 The modification of the conditions of the premises licence;

9.2.1.1 This 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.

9.2.2 The exclusion of a licensable activity from the scope of the licence;

9.2.3 The removal of the designated premises supervisor from the licence;

9.2.4 The suspension of the licence for a period not exceeding 3 months; and

9.2.5 The revocation of the licence.

## **10. BACKGROUND PAPERS**

10.1 Anyone wishing to inspect background papers should, in the first place, be directed to Committee & Electoral Services who will make the necessary arrangements.

IMPLICATIONS	APPENDIX 1
<b>Legal</b>	<p>The Licensing Panel is obliged to determine this application with a view to promoting the four licensing objectives. In making its decision, the licensing panel is also obliged to have regards to the Secretary of State's Guidance and the Council's adopted Licensing Policy.</p> <p>The licensing panel must also have regard to all the representations and evidence it hears.</p> <p>In accordance with the provisions of the Act, the decision can be appealed to the Magistrates' Court within 21 days of the notification of decision.</p>
<b>Finance and Value for Money</b>	<p>There are no direct financial requirements at this time. There is the possibility of a challenge by way of appeal.</p>
<b>Risk Assessment</b>	
<b>Data Protection Impact Assessment</b>	<p><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></p> <p>a. Does the project/change being recommended through this paper involve the processing of <a href="#">personal data</a> or <a href="#">special category data</a> or <a href="#">criminal offence data</a>? A definition of each type of data can be found on the Information Commissioner's Office website via the above links.</p> <p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice?</p> <p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at <a href="mailto:gdpr@medway.gov.uk">gdpr@medway.gov.uk</a>.</p>
<b>Equality Impact Assessment</b>	<p>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</p> <p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. No</p> <p><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></p>
<b>Corporate Plan</b>	<p>There are direct links to Corporate objective 1 - Safe Gravesham, there are indirect links to Corporate objectives 2 - Stronger Gravesham and 3 - Sustainable Gravesham.</p>
<b>Crime and Disorder</b>	<p>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.</p>

<b>Digital and website implications</b>	Basic notices will need updating on the website.
<b>Safeguarding children and vulnerable adults</b>	<p>The Licensing Act requires premises licence holders to promote the licensing objective to protect children from harm.</p> <p>Licensing authorities must play their part in taking the required action against those that don't appear to be upholding this objective.</p>