

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Licensing Hearing Panel

Date: 13th June 2024

Reporting officer: Katie Honeywood, Licensing Officer

Subject: Kings News and Wine, 21C King Street, Gravesend, Kent DA12 2EB

Purpose and summary of report:

To consider the application for a review of the premises licence for Kings News and Wine, 21C King Street, Gravesend, Kent DA12 2EB.

Recommendations:

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

Key Implications:	
Item	Implications
Legal	<p>The LA03 requires licensing authorities to publish a Statement of Licensing Policy which sets out the policies they have in place to promote the four licensing objectives. This policy must be considered when making decisions on applications. The current policy is in place until 15 April 2029. It is available for viewing on the website.</p> <p>Statement of Licensing Policy 2024-29 (gravesham.gov.uk)</p> <p>The licensing authority are required have regard to the Section 182 guidance issued by the Secretary of State. The licensing panel is able to depart from this guidance, but only when they have reason to do so.</p> <p>Revised guidance issued under section 182 of Licensing Act 2003 - GOV.UK (www.gov.uk)</p> <p>The panel are reminded that the Human Rights Act guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property which may include licences in existence, and the protection of private and family life.</p> <p>In accordance with the provisions of the Act, the outcome of this hearing may be appealed to the Magistrates Court by the Licence holder, the applicant for review and any other party that gets involved within 21 days of being notified of the decision.</p>

Finance and Value for Money	None unless there is an appeal about the Panel decision to Magistrates Court which proves to be successful and which could therefore result in costs being awarded against the Council.
Corporate Plan	There are direct links to Corporate Objective: Our Borough and the associated commitment to enforce high regulatory compliance: put Gravesham residents first by driving improved levels of regulatory standards across commercial busiessses and licence holders.
Climate Change	N/A

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 2029. 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.

2. Background

- 2.1 There has been a premises licence at 21C King Street, Gravesend, Kent DA12 2EB since 2006. The current premises licence holder is Mr Rajaratnam Pirakas. Mr Pirakas is also the Designated Premises Supervisor (DPS) for this premises.
- 2.2 Mr Pirakas has been the licence holder and DPS since February 2023.

- 2.3 This licence permits the off sales of alcohol, Monday to Sunday 08.00 to 23.00.
- 2.4 A copy of the full licence can be seen as Appendix A.

3. The Review Application

- 3.1 On the 9 May 2024 the Licensing Authority received an application from Kent Police for a review of the premises licence in respect of Kings News and Wine, 21C King Street, Gravesend, Kent, DA12 2EB.
- 3.2 The review relates to the following licensing objectives:
- Prevention of Crime and Disorder
 - Public Safety
 - Public Nuisance
- 3.3 Kent Police have witnessed a number of issues at the premises, relating to the following:
- 3.3.1 Selling of illegal products (vapes).
- 3.3.2 Illegal working.
- 3.3.3 Continued breaches of premises licence conditions.
- 3.3.4 Sale of alcohol to street drinkers.
- 3.3.5 Sale of alcohol to intoxicate persons.
- 3.3.6 Sale of alcohol outside of authorised hours.
- 3.4 Kent Police do not believe that adding conditions to this premises licence would remedy the situation, as the existing conditions are already being breached.
- 3.5 Due to the seriousness of the situation and the fact that the premises is failing to address concerns brought to their attention, Kent Police are asking that the panel revoke the premises licence. A copy of the application can be seen as Appendix B.

4. Consultation Period

- 4.1 It is a requirement of the Licensing Act 2003, that the licensing authority advertise the review inviting representations from any person for 28 consecutive days. A notice was displayed on the Gravesham Borough Council website and at the premises.
- 4.2 All responsible authorities have been consulted in line with the Licensing Act 2003.

5. Decision

- 5.1 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:

- 5.1.1 Modify the conditions on the premises licence, which can include 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.
- 5.1.2 Remove the designated premises supervisor.
- 5.1.3 Suspend the licence for a period, not exceeding 3 months.
- 5.1.4 Revoke the licence
- 5.1.5 Dismiss the review application.

6. Appendices

6.1 The following are to be published with the report:

- Appendix A – Copy of the Premise Licence
- Appendix B – Kent Police Application for Review

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Secondary Implications	
Risk Assessment	<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 Statement of Licensing Policy.</p> <p>The 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>
Data Protection Impact Assessment	<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 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</p> <p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? Click here to start typing</p> <p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at gdpr@medway.gov.uk. Click here to start typing</p>

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