

Agenda Item No: 5
Licence Reference LN/201300967
Report To: LICENSING SUB COMMITTEE
Date: 21ST AUGUST 2015
Report Title: **Section 53A Licensing Act 2003 – Summary review of a premises licence for The Auction House, 7 New Street, Ashford Kent, TN24**
Report Author: Licensing Support Officer



Summary: The report advises Members of a licence application under the provisions of the Licensing Act 2003.

Application type: **Application is made for a summary review for a premises licence under the provisions of section 53A to the Licensing Act 2003**

Applicant: **Chief Officer of Police, Ashford**
Premises: **The Auction House, 7 New Street, Ashford Kent, TN24**

To advise elected members of a valid 'Application for a Summary Review of a Premises Licence' under Section 53A of the Licensing Act 2003 has been received.

Key Decision: NO

Affected Wards: Victoria

Recommendations: **The licensing Sub-Committee is asked to consider whether it is necessary to take interim steps prior to the hearing of the expedited review.**

Policy Overview: The decision is to be made with regard to the Licensing Act 2003, Secretary of State's Guidance issued under Section 182 of the Act and the Council's Statement of Licensing Policy. Where the decision departs from the Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and such departure must be supported by clear and cogent reasons.

Financial Implications: There are no specific financial implications arising from this application. However additional costs may be incurred should the matter go to appeal.

Other Material Implications:

HUMAN RIGHTS: In considering this application the Sub Committee will balance the competing Human Rights of the various parties including the right to respect for private and family life, the protection of property and the right to a fair hearing.

LEGAL: Under the Licensing Act 2003 the Council has a duty to exercise licensing control of relevant premises.

Exemption Clauses: Not applicable

Background Papers: None

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Report Title: **Application is made for a summary review for a premises licence under the provisions of section 53A to the Licensing Act 2003, namely; The Auction House, 7 New Street, Ashford Kent, TN24**

Purpose of the Report

1. The report advises Members of a summary review application under the provisions of the Licensing Act 2003.

Application type: **Application for a summary review of a premises licence**

Applicant: **Chief Officer of Police, Ashford**

Premises: **The Auction House, 7 New Street, Ashford Kent, TN24**

Issue to be Decided

2. Members are asked to consider whether it is necessary to take interim steps prior to the hearing of the expedited review.

Background

The Licensing Objectives

3. The licensing authority must carry out its functions under the Licensing Act 2003 with a view to promoting the licensing objectives namely, the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm (LA 2003, s4 (1)).

Application details

4. The application is for an expedited review of a premises licence, which allows 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 serious disorder (or both).
5. The application has been correctly submitted by the chief officer of police for the area and accompanied by a certificate from a senior police officer, stating that in their opinion the premises are associated with serious crime or serious disorder (or both).

6. The application and certificate required can be found at Appendix A and B respectively.
7. The licensing authority on receipt of the application and the certificate, must within 48 hours of the time of its receipt consider whether it is necessary to take interim steps pending determination of the review of the premises licence in any event must undertake a review within 28 days after the day of receipt of the application.
8. The licensing authority may want to consult the police about the steps that it thinks are appropriate, pending the determination of the review, to address the immediate problems with the premises, in particular the likelihood of serious crime and/or serious disorder. The licensing authority may consider the interim steps without the holder of the premises licence having been given an opportunity to make representations. This does not, of course, mean that the licensing authority *cannot* afford such an opportunity if it thinks it appropriate and feasible to do so in all the circumstances.
9. There is no requirement for a formal hearing in order to take the interim steps. This means that the relevant sub committee members can communicate by telephone or other remote means in order to reach a decision. A written record should always be produced as soon as possible after a decision is reached.
10. The review must take place even if the chief officer asks to withdraw his application or representations.
11. A copy of the current premises licence can be found at Appendix C

Decision Options

12. The options open to the licensing authority at the interim steps stage include:
 - modification of the conditions of the premises licence;
 - the exclusion of the sale of alcohol by retail from the scope of the licence;
 - removal of the designated premises supervisor from the licence; and
 - suspension of the licence.
13. If the licensing authority decides to take steps at the interim stage the decision takes effect immediately, or as soon after it as the licensing authority directs and the licensing authority must give immediate notice of its decision and its reasons for doing so to the holder of the premises licence and the chief officer of police who made the application.

Consultation

14. All relevant parties have followed the consultation procedures required under the Licensing Act 2003 and the application has been advertised accordingly.

Implications Assessment

15. The decision should be made with regard to the Secretary of State's Guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from either the Guidance or the policy clear and cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal / challenge is increased.

Human Rights

16. While all Convention Rights must be considered, those which are of particular relevance to the application are:
 - Article 8 - Right to respect for private and family life
 - Article 1 of the First Protocol - Protection of Property
 - Article 10 – Freedom of Expression

The full text of each Article is given in the attached Appendix D.

Handling

17. The timings for handling the application are set out in the Licensing Act 2003 and related regulations.

Conclusion

18. Members must ensure that the application is considered on its merits, as well as against the relevant guidance, policy and statutory framework.

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