

Agenda Item No:

Licence Reference

Report To: LICENSING SUB COMMITTEE

Date: 10TH OCTOBER, 2016

Report Title: Licensing Act 2003 - Application for the review of the premises licence in respect of the Woolpack Hotel, 26 High Street, Tenterden, TN30 6AP on the grounds of prevention of public nuisance.

Report Author: Licensing Officer – Alison Simmonds



Summary:

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

Application type: **Application is made for the review of the premises licence under the provisions of section 51 to the Licensing Act 2003.**

Applicant: **Mr Malcolm Kneller on behalf of Eastwell Meadows Management Company, 14 Eastwell Meadows, Tenterden, TN30 6QR.**

Premises: **Woolpack Hotel, 26 High Street, Tenterden, Kent, TN30 6AP.**

To advise elected members of a valid 'Application for a Review of a Premises Licence' under Section 51 of the Licensing Act 2003 has been received and a hearing and determination is required under Section 52(2) of the Act.

Key Decision: NO

Affected Wards: Tenterden North Ward

Recommendations: That the Licensing Sub-Committee makes a determination, as required by Regulation 26(2) of the Licensing Act (Hearings) Regulations 2005.

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 and this includes determinations for applications to review.

Exemption Clauses: Not applicable

Background Papers: None

Contacts: ali.simmonds@ashford.gov.uk – Tel: 01233 330722

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Report Title: **Licensing Act 2003 - Application for the review of the premises licence in respect of the Woolpack Hotel, 26 High Street, Tenterden, TN30 6AP on the grounds of prevention of public nuisance.**

Purpose of the Report

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

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

Applicant: **Mr Malcolm Kneller on behalf of Eastwell Meadows Management Company, 14 Eastwell Meadows, Tenterden, TN30 6QR.**

Premises: **Woolpack Hotel, 26 High Street, Tenterden, Kent, TN30 6AP.**

Issue to be decided

2. Members are asked to consider an application to review a premises licence received under the provisions of section 51 of the Licensing Act 2003.

Background

3. The Licensing Act 2003 (the Act), directs that a premises licence is required for any venue where any 'licensable activity' is carried on. Such activities include the sale or supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment.
4. Representations are only valid where they relate to one of the four licensing objectives, namely:
 - a) the prevention of crime and disorder
 - b) public safety
 - c) the prevention of public nuisance
 - d) protection of children from harm
5. An application for the review of these premises has been received from Mr Malcolm Kneller on behalf of Eastwell Meadows Management Company, Tenterden. This application was also circulated to other responsible authorities to give them the opportunity to make representations. (Police, Fire and Rescue Service, Environmental Health, Trading Standards, Social Services, Health & Safety Executive, a health body and the Planning Authority). The application is appended at Appendix A.

6. In accordance with the Act the application has been correctly displayed by way of notices at the premises, on the Council's website and on a notice board at the Council offices at the Civic Centre. A copy of the notice is at Appendix B.
7. A copy of the Woolpack's premises licence and plans is at Appendix C.
8. Before determining the review application, the Council Licensing authority must hold a hearing to consider it and any relevant representations received.
9. Representations were subsequently received from Kent Police (Appendix D) and Environmental Protection (Appendix E).
10. Representations by 2 members of the public are at Appendix F and Appendix G.
11. All applications for the review of a premises licence require the applicant to state the grounds for the review. In summary the application for a review states the following problems:
 - a) The noise from events held in the Barn/Barrelhouse/garden has caused distress and inconvenience to residents and as such the application seeks to review and restrict any music events from those areas (not in the main body of the Premises).
12. This applicant makes a request for a review of the premises licence based upon the following events;
 - Friday 3 July 2015
 - Saturday 4 July 2015
 - Sunday 5 July 2015
 - Friday 24 July 2015
 - Sunday 30 August 2015
 - Saturday 12 September 2015
 - Thursday 31 December 2015
 - Saturday 26 March 2016
 - Friday 27 May 2016
 - Thursday 2 June 2016
 - Saturday 4 June 2016
 - Tuesday 28 June 2016
 - Friday 1 July 2016
 - Saturday 2 July 2016
 - Sunday 3 July 2016
 - Saturday 10 September 2016
13. The Guidance suggests that where authorised persons and responsible authorities have concerns about problems identified at a premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A

failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review.

14. Three meetings have been held on 13/02/15, 07/05/15 and 07/06/16 with the licence holder to inform them of the Ashford Borough Council and the Police's concerns and to make suggestions as to appropriate steps to promote the licensing objectives. In addition, routine enforcement visits have also been made on 20/06/15, 01/12/15 and 02/07/16.

Relevant premises history

15. The premises are situated on High Street, Tenterden within the town, next to the Town Hall. There has been a public house in this location for many years and the current premises licence holder is a company named The Woolly Limited. The current designated premises supervisor (DPS), Mr Robert Cowan has been in place since 30th May 2012.

16. The premises licence, permits the following activities:

<i>Alcohol Sales (on and off sales)</i>		<i>Regulated Entertainment</i>		<i>Live music</i>	
Sunday	10.00 – 00.00	Sunday	12.00 – 22.30	Sunday	18.00 – 22.30
Monday	10.00 – 01.00	Monday	18.00 – 23.00	Monday	18.00 – 23.00
Tuesday	10.00 – 01.00	Tuesday	18.00 – 23.00	Tuesday	18.00 – 23.00
Wednesday	10.00 – 01.00	Wednesday	18.00 – 23.00	Wednesday	18.00 – 23.00
Thursday	10.00 – 01.00	Thursday	18.00 – 23.00	Thursday	18.00 – 23.00
Friday	10.00 – 01.30	Friday	10:00 - 00:00	Friday	10.00 – 00.00
Saturday	10.00 – 01.30	Saturday	10:00 - 0000	Saturday	18.00 – 00.00

Seasonal variations

Alcohol sales

Christmas Eve and New Years Eve until 02.00

Live Music and Regulated Entertainment (recorded music, performance of dance, facilities for making music, facilities for dancing)

New Years Eve until 02.00, Folk festival (October for 3 days) – 10.00 – 00.00.

19. Since 2013, there has been 37 individual complaints relating to noise at the premises, relating to 17 different dates.

On 10th April, 2015, Ashford Borough Council issued a Community Protection warning letter under Anti Social Behaviour, Crime and Policing Act, 2014 with respect to the issue of noise. In addition, a Noise Abatement Notice was also issued 5th July, 2016 requiring that the company prohibit a reoccurrence of the nuisance.

Hearings Regulations

19. Regulations governing hearings under the Licensing Act 2003 have been made by the Secretary of State.

20. The Licensing Authority has provided all parties with the information required in the Regulations to the 2003 Act including:

- a copy of the Notice of Hearing;
- the rights of a party provided in Regulations 15 and 16;
- the consequences if a party does not attend or is not represented at the hearing
- The procedure to be followed at the hearing.

Appeals

20. The Licensing Act 2003 Section 181 and Schedule 5 makes provision for appeals to be made by the applicant; the holder of the premises licence and those making representations against decisions of the Licensing Authority to the Magistrates' Court within 21 days of the determination.

Recommendations

21. That Members carefully consider the application for review and take such steps as detailed in paragraph 24 below that the Sub-Committee consider necessary for the promotion of the licensing objectives.

Decision options open to members

23. The Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

24. Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music;

- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- or revoke the licence.

25. In deciding which of these powers to invoke, if any, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.

26. The Licensing Act 2003 at section 52(11) states that:

“A determination under this section does not have effect –

- a) until the end of the period given for appealing against the decision, or*
- b) if the decision is appealed against, until the appeal is disposed of.”*

Consultation

27. All relevant parties have followed the consultation procedures required under the Licensing Act 2003. 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.

Handling

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

Conclusion

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

Further Information

30. None

Contact:	Licensing Officer
Email:	ali.simmonds@ashford.gov.uk

Summary of Appendices

Appendix A: Application to review

Appendix B: Copy of Public Notice

Appendix C: Copy of The Woolpack's premises licence and plans

Appendix D: Representation from Kent Police

Appendix E: Representation and copies of notices issued from Environmental Protection

Appendix F: Representation from a member of the public

Appendix G: Representation from a member of the public