

Licensing Act 2003 Sub- Committee



Forest Heath
District Council

Title of Report:	Application for the Review of a Premises Licence in respect of The Maids Head, Kingsway, Mildenhall
Report No:	LSC/FH/15/003
Decisions plan reference:	Not applicable.
Report to and date/s:	Licensing Act 2003 Sub-Committee – 29 July 2015
Portfolio holder:	Councillor James Waters Portfolio Holder for Planning and Growth Tel: 07771 621038 Email: james.waters@forest-heath.gov.uk
Lead officer:	Sheila Gowans Licensing Officer Tel: 01638 719369 Email: sheila.gowans@westsuffolk.gov.uk
Purpose of report:	This report sets out an application for the review of a premises licence under the Licensing Act 2003 for the above premises.
Recommendation:	It is <u>RECOMMENDED</u> that, having regard to the four licensing objectives; Statement of Licensing Policy; the representations; any further relevant information presented on the day of the hearing; take any of the steps set out below provided they are proportionate and appropriate for the promotion of the four licensing objectives: The steps maybe: (1) Take no action (2) Modify the conditions of the licence. (3) Exclude a licensable activity (4) Remove the designated premises supervisor (5) Suspend the licence for a period not exceeding 3 months (6) Revoke the licence (Section 52(4)).

Key Decision: <i>(Check the appropriate box and delete all those that do not apply.)</i>		<i>Is this a Key Decision and, if so, under which definition?</i> Yes, it is a Key Decision - <input type="checkbox"/> No, it is not a Key Decision - <input checked="" type="checkbox"/>	
Consultation:		See Paragraph 4 below	
Alternative option(s):		No other applicable option unless the applicant withdraws	
Implications:			
Are there any financial implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any staffing implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any ICT implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any legal and/or policy implications? <i>If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> See Paragraph 5 below	
Are there any equality implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Any decision reached which is not in accordance with the Act and any regulations made under the Act may be considered ultra vires and could be subject to an application for Judicial Review	High	The Sub-Committee, should have regard to it's statement of licensing policy and any other guidance issued under section 182 of the Licensing Act 2003, but may depart from these where reasons are given.	Low
Ward(s) affected:		Market	
Background papers: <i>(all background papers are to be published on the website and a link included)</i>		Licensing Act 2003 S.182 Guidance https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003 Forest Heath Statement of Licensing Policy http://www.forestheath.gov.uk/info/2/00063/licences_and_street_trading/22/statement_of_licensing_policy	

Documents attached:

Appendix 1 – Application
Appendix 2 – Supporting documentation
Appendix 2A – Supporting documentation
Appendix 3 – Current premises licence
Appendix 4 – Location map
Appendix 5 – Representation Lees
Appendix 6 – Representation Palmer
Appendix 7 – Representation Sykes
Appendix 8 – Representation Dear
Appendix 9 – Representation M Sparrow
Appendix 10 – Representation P Sparrow
Appendix 11 – Representation Gilbert
Appendix 12 – Representation Poymor
Appendix 13 – Representation Wurzbürger
Appendix 14 – Representation Freeman
Appendix 15 – Representation Cheyne
Appendix 16 – Representation Morris
Appendix 17 – Representation Z Finn
Appendix 18 – Representation P Finn
Appendix 19 – Representation Freeman J
Appendix 20 – Representation Hobbs
Appendix 21 – Representation Fulham
Appendix 22 – Representation Da Silva
Appendix 23 – Representation Gray
Appendix 24 – Representation Buzna
Appendix 25 – Petition

1. Key issues

- 1.1 Suffolk Constabulary have made an application to review the premises licence for the Maids Head, Kingsway, Mildenhall, licence number PL093. A copy of the application is attached as **Appendix 1**.
- 1.2 The premises licence is held by Greene King Retailing Ltd.
- 1.3 The grounds for the review are an increase and ongoing rise in crime and disorder at the premises, high levels of intoxication and significant weaknesses of the management of the premises to uphold the licensing objectives. The Police evidence and statements are attached as **Appendix 2**. A further bundle of supporting documents was submitted by the Police on 16 July 2015 and is attached as **Appendix 2A**.
- 1.4 A copy of the current licence is attached as **Appendix 3** to this report and a map showing the immediate area is attached as **Appendix 4**.
- 1.5 The four Licensing Objectives of the Licensing Act 2003 are set out below. Any representations for consideration must relate to one or more of these objectives.
 - Prevention of Crime and Disorder
 - Public Safety
 - Prevention of Nuisance
 - Protection of Children from Harm

Options

- 1.6 Having regard to the application submitted by Suffolk Constabulary, to the four licensing objectives; Statement of Licensing Policy; the representation(s); any further relevant information presented on the day of the hearing; the sub-committee may take any of the steps set out below provided they are proportionate and appropriate for the promotion of the four licensing objectives:
 - a. **Take no action:** the sub-committee is not obliged to take any action if no action can be found that is appropriate or necessary to promote the licensing objectives.
 - b. **Modify the conditions of the Licence:** the conditions of the licence are modified if any of them are altered or omitted or any new condition is added. This could include imposing further conditions on the licence or changing the hours of certain licensable activities, where this is proportionate and necessary for the promotion of the licensing objectives
 - c. **Exclude a licensable activity from the scope of the licence:** the sub-committee may decide to remove one or more of the licensable activities if they are satisfied that it is proportionate and appropriate to promote one or more of the licensing objectives. This may be permanent, or for a period not exceeding 3 months.
 - d. **Remove the designated premises supervisor (DPS):** a DPS is required where a premises licence authorises the sale of alcohol.
 - e. **Revoke the Licence (Section 52(4)):** only where the sub-committee is satisfied that this is proportionate and appropriate to promote one or more of the licensing objectives.

2. Relevant Representations

- 2.1 The application has been advertised by way of notice on the premises, at the Council offices and on the Council website.
- 2.2 **Responsible Authority** There are no representations from any other responsible authority.
- 2.3 **Other Parties** A number of representations have been received about this application, which are attached as **Appendix 5 through to 24**. There has also been a petition submitted from customers of the premises and is attached as **Appendix 25**. Only house numbers and post codes are given and some names are not complete. Other names on the petition have also submitted individual representations.

3. Matters for consideration

- 3.1 Section 17 of the Crime and Disorder Act 1998 imposes a duty on each local authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area.
- 3.2 In making their decision, Members are advised to consider the Licensing Act 2003, the Guidance on the Act and the Council's Statement of Licensing Policy.

4. Consultation

- 4.1 The applicant is required to serve the application on all other responsible authorities. The application has been advertised by way of notice on the premises, at the Council offices and on the Council website.

5. Legal and policy implications

- 5.1 In making any decision Members should have regard to the legislation; the current Section 182 Guidance; the Council's Statement of Licensing Policy; the application and supporting information; additional representations received and consideration of any relevant matters arising out of the hearing.
- 5.2 In deciding which of the powers to invoke, 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 proportional response.
- 5.3 Section 6 of the Licensing Statement of Policy, paragraph 6.1, as set out below, is relevant and is brought to the attention of the Licensing Act Sub-Committee: "The Licensing Authority, through the exercise of its licensing functions once its discretion is engaged, shall not seek to restrict the trading hours of any particular premises unless it is considered necessary and proportionate to promote one or more of the licensing objectives. Each application will be considered individually on its own merits;"

- 5.4 The decision may be appealed, by the applicant or any other party to the hearing, within 21 days of written notification of the determination made by the sub-committee. The sub-committee should state in reaching its determination those matters which it considered relevant, those matters which it did not consider as they were irrelevant, and its reasons for the decision.
- 5.5 The decision made by the Licensing sub-committee does not come into force immediately. It comes into force after 21 days from the notification of the decision, which is the period allowed for appeal to Magistrates Court. If there is an appeal the amendment does not come into force until the appeal is heard.