

This report will be made public on 12 March 2018

Folkestone

Hythe & Romney Marsh
Shepway District Council



Report Number **DCL/17/40**

To: Licensing Sub-Committee
Date: 20 March 2018
Status: Non-Executive Decision
Head of service: Ben Geering

SUBJECT: An application to review the Premises Licence for:
Bank Bar, Basement Premises, 2 Castle Hill Avenue, Folkestone CT20 2QT

SUMMARY: This report sets out the facts for the Licensing Committee to consider when a responsible authority applies to the Licensing Authority for a review of a premise licence. The licensing committee is the Licensing Authority acting in a role previously taken by the Magistrates Court. It is, therefore, not appropriate for officers to make additional comments other than in the capacity as a Responsible Authority under the legislation of the Licensing Act 2003. Therefore there are no comments from Legal, Finance or other officers included in this report

REASONS FOR DETERMINATION:

The Committee is obliged to determine the review with a view of promoting the licensing objectives. In making its decision the Committee must also have regard to all the representations made and the evidence it hears. The Committee is obliged to have regard to the national guidance and the councils own licensing policy.

DETERMINATION:

The Licensing Sub-Committee is asked to:

1. Note the contents of Report DCL/17/40.
2. Determine the review. The options for determining the application are set out in section 5 below.

1. BACKGROUND

- 1.1 The Licensing Act 2003 provides that the sale or supply of alcohol on and off the premise and other licensable activities must be authorised by a premise licence.

A premises licence holder must comply with the four licensing objectives:

- The prevention of crime and disorder
- Public Safety
- The prevention of public nuisance
- The protection of children from harm

They must also explain how they will comply with the licensing objectives.

- 1.2 If a responsible authority considers that a premise licence holder is not complying with any of the licensing objectives, they can apply to the Licensing Authority for a review of the licence.
- 1.3 Environmental Protection applied on 25th January 2018 for a review of the premise licence for Bank Bar, Basement Premises, 2 Castle Hill Avenue, Folkestone CT20 2QT. A copy of the application is enclosed as Appendix 1.
- 1.4 Following the issue of the statutory notice that a review is to be held, 28 days are allowed for further consultation during which period further independent representations were received. Copies of these are enclosed as Appendix 2.
- 1.5 Between November 2005 and 20th October 2016 the premises operated under a single premises licence shared with the ground floor restaurant (Kalala). This allowed opening hours of 10am to 00.30 Sunday to Thursday and until 01.30 on Fridays and Saturdays, with the licence included as appendix 4b to this report. An application was made for a separate licence for the Bank Bar on 20th October 2016, with the licence issued on 25th April 2017 (the current licence). This licence is attached as Appendix 4a however allows significantly later opening than the previous licence in place, with opening hours until 04.00 Thursdays – Saturdays and 01.00 Sundays to Wednesdays. Between 20th October 2016 and the issuing of the current licence on 25th April 2017 3 late night events were held at the premises via the use of Temporary Events Notices. Applications were made for 5 TENS but 2 were refused on the grounds of noise and crime and disorder.
- 1.6 The site was converted to a ground floor restaurant and a basement bar with music from a high street bank. The Bank Bar is accessed from Castle Hill Avenue through an open courtyard used as a smoking area and down a wide set of steps. Castle Hill Avenue is a mainly residential area and Bouverie Road West, in the immediate vicinity of the Bank Bar, comprises residential accommodation over ground floor retail and catering premises.

2. APPLICATION

- 2.1 An application was made on 25th January 2018 for a review of the Premise Licence for the Bank Bar by Environmental Protection, a responsible authority.
- 2.2 The review application is in relation to Bank Bar, Basement Premises, 2 Castle Hill Avenue, Folkestone CT20 2QT (See Appendix 1)
- 2.3 There are 20 independent representations (See Appendix 2)
- 2.4 The licence holder has submitted representation (See Appendix 3)

3. OBSERVATIONS

- 3.1 The Committee must take such steps, as it considers necessary for the promotion of the licensing objectives:
 - The prevention of crime and disorder
 - Public Safety
 - The prevention of public nuisance
 - The protection of children from harm
- 3.2 The Shepway District Council Licensing Policy is available at:
http://www.shepway.gov.uk/media/4022/Licensing-Policy-Statement-2016-2021/pdf/Shepway_District_Council_-_Licensing_Policy_Statement_2016-2021.pdf
- 3.3 The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available at:
<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

4. RELEVANT REPRESENTATIONS

- 4.1 This hearing has been required by the Licensing Act 2003 because an application has been received from a responsible authority to review the premise licence.
- 4.2 20 representations have been received from other interested parties by the Licensing Authority regarding the application. These can be found in Appendix 2.

5. OPTIONS

- 5.1 The licensing sub-committee has the following options:
 - a) Reject the application and leave the licence and conditions unchanged.
 - b) Modify the operating schedule and/or conditions of the licence
 - c) Exclude a licensable activity from the scope of the licence
 - d) To remove the Designated Premises Supervisor

- e) To suspend the licence for a period not exceeding 3 months
- f) To revoke the licence.

- 5.2 The committee must only consider evidence that relates to the 4 licensing objectives. Any conditions must promote the licensing objectives.
- 5.3 The determination of the application for a review of the premise licence comes into effect after the period for appeal has expired or, if an appeal is lodged, when the appeal has been determined by the courts.

6. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

6.1 Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

Arthur Atkins, Environmental Health and Licensing Manager
Telephone: 01303 853242
Email: arthur.atkins@shepway.gov.uk

6.2 Background documents are detailed in section 3.

Appendices:

- Appendix 1. Application for Review from Environmental Protection
- Appendix 2 Representations
- Appendix 3 Response from licence holder
- Appendix 4 Current Licences

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