

This report will be made public on 11 June 2018



Report No: **DCL/18/05**

**To:** Licensing Sub-Committee  
**Date:** 19 June 2018  
**Status:** Non-Executive Decision  
**Head of Service:** Ben Geering

**SUBJECT:** An application to Review the Premises Licence for:

**The Swan Hotel, 59 High Street, Hythe, CT21 5AD**

**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 revised national section 182 guidance and the council's own licensing policy.

**DETERMINATION:**

**The Licensing Sub-Committee is asked to:**

1. Note the contents of Report DCL/18/05.
2. Determine the review. The options for determining the application are set out in section 4 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 premise 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 The Swan Hotel is a premises situated in High Street, Hythe. The high street is a mainly commercial area with a mix of public houses, retail premises and other commercial premises. There is a limited amount of residential use of the accommodation over the retail premises. The Swan Hotel is an established licensed premise operating as a public house, restaurant and hotel. Current premise licence is shown in Appendix 1 (page 7).

## **2. APPLICATION**

- 2.1 PC Chris Stephens on behalf of Kent Police has applied for a review of the premise licence for the Swan Hotel 59 High Street, Hythe on 24 April 2018 under section 87 of the Licensing Act 2003. A copy of the application is enclosed as Appendix 2 (page 11).

## **3. RELEVANT REPRESENTATION**

- 3.1 During the time permitted for representation to be received regarding the Review application, representation was received from 2 responsible authorities and 5 other interested parties including neighbouring residents and businesses as well as the premise licence holder/designated premise supervisor. A copy of these is enclosed as Appendix 3 (page 23).

## 4. OPTIONS

4.1 The licensing sub-committee has the following options:

- a) Reject the application and leave the licence and conditions unchanged.
- b) Modify the 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.

4.2 The committee must only consider evidence that relates to the 4 licensing objectives. Any conditions must promote the licensing objectives and be evidence based.

4.3 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.

## 5. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

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](mailto:arthur.atkins@shepway.gov.uk)

### **Background documents:**

Current Licensing Policy is available here

[http://www.shepway.gov.uk/media/4022/Licensing-Policy-Statement-2016-2021/pdf/Shepway\\_District\\_Council\\_-\\_Licensing\\_Policy\\_Statement\\_2016-2021.pdf](http://www.shepway.gov.uk/media/4022/Licensing-Policy-Statement-2016-2021/pdf/Shepway_District_Council_-_Licensing_Policy_Statement_2016-2021.pdf)

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>

The Committee members are advised to read the new guidance thoroughly. Your attention is drawn to paragraphs 9.42, 9.43 and 9.44 in respect of the determination of the application. Additionally members are advised to refer to section 10 about imposing conditions and section 11 about reviews. It is also good practice that if they propose to apply conditions they should be discussed with the applicant prior to the determination to ensure that they are proportionate.

## 6. APPENDICES

Appendix 1. Current licence (page 7)

Appendix 2 Application for Review of Premise Licence (page 11)

Appendix 3 Relevant Representation (page 23)