

**LICENSING SUB-COMMITTEE
THURSDAY 30 JULY 2020**

**APPLICATION BY MRS YVONNE RICKARDS FOR A VARIATION
TO THE PREMISES LICENCE HELD BY WIG & GOWN, SPITAL
STREET, DARTFORD, KENT DA1 1DX**

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1. Summary

- 1.1 To determine an application to vary a Premises Licence.

2. Background and Discussion

- 2.1 The Licensing Act 2003 (the 2003 Act) requires the Council (as licensing authority) to carry out its various licensing functions so as to promote the following four licensing objectives:

- (1) the prevention of crime and disorder;
- (2) public safety;
- (3) the prevention of public nuisance;
- (4) the protection of children from harm.

- 2.2 The 2003 Act further requires the Council to publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The General Assembly of the Council adopted the Council's current Statement of Licensing Policy, on 10 December 2018 [Min. No 72]. Should the need arise, the Policy will be available at the meeting, for reference purposes.

- 2.3 Under the 2003 Act, it is the duty of all licensing authorities that, in carrying out their functions, they must have regard to guidance issued by the Secretary of State under section 182. The Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Provided that the licensing authority has properly understood and considered the Guidance, it may depart from it when it has reason to do so. However, as the licensing authority is under a duty to have regard to the Guidance, it will need to give full reasons for its departure from it. This would be a key consideration for the courts should departure from the Guidance result in a determination, which gives rise to an appeal or judicial review. Should the need arise the Guidance will be available at the meeting, for reference purposes.

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- 2.4 Applications will be considered on their individual merits and the Sub-Committee will impose any conditions that it considers appropriate to promote the licensing objectives.

3 THE APPLICATION

3.1 Application

The application is to vary a Premises Licence under Section 34 of the Licensing Act 2003 in relation to the premises Wig & Gown Public House – Appendix A.

- (a) The Operating Schedule shows the following licensable activities and trading hours with proposed amendments to the existing conditions additional conditions as shown at (f) and (g) below:
- (b) Relevant licensable activities:
- To include Films:
 - 08:00-00:30 Sunday to Thursday
 - 08:00-02:30 Friday and Saturday
 - Christmas Eve, New Year's Eve and Sundays prior to a Bank Holiday until 02:00
 - To include Live Music:
 - 19:00-00:30 Sunday to Thursday
 - 19:00-02:30 Friday and Saturday
 - Christmas Eve, New Year's Eve and Sunday prior to a Bank Holiday until 02:00
 - Acoustic music in the garden until 22:00 everyday
 - To include Late Night Refreshment:
 - 23:00-00:00 Sunday to Saturday
- (c) Hours for the sale and supply of alcohol:

No variation is sought.

Under the current licence, alcohol sales are permitted for consumption on the premises between the hours of:

10:00 – 00:00 Sunday to Thursday.

10:00 – 02:00 Friday and Saturday

Christmas Eve, New Year's Eve and Sunday prior to a Bank Holiday until 02:00

- (d) Other times premises proposed to be open to the public:

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No changes are proposed to the current opening hours of:

10:00 – 00:30 Sunday to Thursday.

10:00 – 02:30 Friday and Saturday

Christmas Eve, New Year's Eve and Sunday prior to a Bank Holiday until 02:30

- (e) The DPS is Mrs Yvonne Rickards.
- (f) The following Conditions under Annex 2 and Annex 3 of the current licence (Appendix B) to be removed:
- a. When the premises are open on Thursday, Friday and Saturdays and Bank holidays there will be no admission or re-admission after 00:00 hours.
 - b. The rear garden shall not be used by patrons after 21:00 Sunday to Thursday, nor after 22:30 on Fridays, Saturdays, Bank Holidays or Christmas Eve.
 - c. Bottles and other waste should not be removed from the premises and tipped into refuse and recycling bins between 21:00 and 08:00. Kitchen waste may be emptied until 21:30. Waste and recycling bins utilised shall be lidded and large enough to hold all waste generated by the premises.
 - d. When the premises are open between 20:00hrs till close on Thursday, Friday and Saturdays and Bank Holidays a minimum of 4 SIA door supervisors must be present at the customer entrance and exit of the premises

All other conditions remain unchanged.

- (g) Additional conditions proposed to promote the licensing objectives:
- When the premises are open on Friday and Saturdays and Sundays prior to Bank Holidays there will be no admission or re-admission after 01:45 hours.
 - The rear garden shall not be used by patrons after 00:00 Sunday to Saturday.
 - Bottles and other waste should not be removed from the premises and tipped into refuse and recycling bins between 00:00 and 08:00. Kitchen waste may be emptied until 00:30. Waste and recycling bins utilised shall be lidded and large enough to hold all waste generated by the premises.
 - When the premises are open between 20:00 hrs till close on Friday and Saturdays and Sundays prior to Bank Holidays a minimum of 3 SIA door supervisors must be present at the customer entrance and exit of the premises.

4 RELEVANT REPRESENTATIONS

4.1 Responsible Authorities

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- **Police** – The Police have made representation based on the licensing objective of ‘crime and disorder’, ‘prevention of public nuisance’ and ‘public safety’- Appendix C
- **Environmental Health Officer** – has made no representation based on the licensing objective ‘prevention of public nuisance’ – Appendix D
- **Planning Officer** – has made no representation.
- **Fire Safety Officer** – has made no representation.
- **Child Protection Agency** – has made no representation.
- **Trading Standards** - have made no representation.

4.2 Interested Parties

A response was received from Councillor Rosanna Currans, the Dartford Ward Councillor and Portfolio Holder for the High Street Revival & Town Centre based on the licensing objectives of the prevention of ‘crime and disorder’ and ‘public nuisance’ – Appendix E.

4.3 Local Policy Considerations

It is considered that the following Policies have a bearing upon the application and these are summarised at Appendix F.

4.4 Secretary of State Guidance Considerations

It is considered that the following matters set out in the Secretary of State’s Guidance have a bearing upon the application, as summarised at Appendix G.

4.5 Human Rights

The Council has a duty under Article 8 of the European Convention on Human Rights to protect the rights of its residents to privacy and family life. The Council also acknowledges the rights of businesses in its area to operate, but this must be balanced against the rights of residents not to be disturbed by unreasonable noise and nuisance caused by licensed premises.

4.6 Conditions

In all applications relating to premises licenses, the Council expects applicants to specify methods by which they will promote the four licensing objectives in their operating schedules. Even if the applicant does comply with any of the paragraphs listed below, they may not necessarily achieve the promotion of the licensing objectives in a given case. Where appropriate, and in order to promote the four licensing objectives, the Sub-Committee may attach additional conditions to premises licences.

(a) The Prevention of Crime and Disorder

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This may, for example, be promoted by employing registered door supervisors, ensuring staff have attained relevant BIIAB qualifications, i.e. the Drugs Awareness Certificate, the Barperson's National Certificate, the Professional Barperson's Qualification etc., incorporating a search policy into the entry conditions of the premises, the location and standard of any CCTV systems on the premises, restrictions on the irresponsible use of 'happy hours' and other drinks promotions.

The applicant proposes to remove the conditions outlined in 3.1(f) and replace with conditions in 3.1(g) - all other conditions in Appendix B remain unchanged.

(b) Public Safety

This may, for example, be promoted by ensuring that staff has the appropriate training, ensuring that safe capacity limits are set and that there is no overcrowding, that fire-fighting equipment is checked regularly, and that certificates required by the Council are available by the relevant date.

The applicant proposes to remove the conditions outlined in 3.1(f) and replace with conditions in 3.1(g) - all other conditions in Appendix B remain unchanged.

(c) The Prevention of Public Nuisance

The Council will take particular care to ensure that residents are not disturbed late at night. Where an application is made for a new licence or for an extension of hours beyond 11pm, the Council will not grant the application unless satisfied that it will not create an unreasonable disturbance to local residents. However, before refusing a licence on these grounds the Council will consider whether such disturbance may be avoided by the application of conditions.

The applicant proposes to remove the conditions outlined in 3.1(f) and replace with conditions in 3.1(g) - all other conditions in Appendix B remain unchanged.

(i) Noise from Premises

In the case of every premises licence application the Council will consider whether the sound from music and/or customers may escape from the premises, noise from ventilation and other mechanical plant is minimal, steps are taken to ensure patrons and staff leave the premises quietly (including the prominent display of notices to this effect), arrangements are made for patrons to park

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their cars in a manner that does not disturb or inconvenience local residents and arrangements are made to minimise noise from taxis. Conditions may be imposed to satisfy these considerations.

The applicant proposes to remove the conditions outlined in 3.1(f) and replace with conditions in 3.1(g) - all other conditions in Appendix B remain unchanged.

(d) The Protection of Children

This may, for example, be achieved by ensuring children are not admitted to premises on days when adult entertainment is provided, that 'proof of age' cards complying with the Home Office approved Proof of Age Standards Scheme (PASS), such as those promoted by the Portman Group, are required for the supply of alcohol, and that children are not admitted, or allowed to remain on, premises after a certain time.

The applicant proposes to remove the conditions outlined in 3.1(f) and replace with conditions in 3.1(g) - all other conditions in Appendix B remain unchanged.

5. Determining the Application

- (a) The Sub-Committee is obliged to determine this application with a view to promoting the licensing objectives, which are:
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance;
 - the protection of children from harm.
- (b) In making its decision, the Sub-Committee is also obliged to have regard to the Secretary of State's Guidance and the Council's adopted Licensing Policy.
- (c) The Sub-Committee must also have regard to all of the representations made and the evidence it hears and must take such of the following steps, as it considers appropriate for the promotion of the licensing objectives:
- (i) grant the application as requested;
 - (ii) modify the conditions of the licence, by altering, omitting or adding to them; or
 - (iii) reject the whole or part of the application.

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- (d) The Sub-Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because the Sub-Committee considers it desirable to do so. Modification or rejection must actually be appropriate in order to promote the licensing objectives.

6. Observations on the Application:

The Premises is Public House situated on Spital Street Dartford and is part of the late night economy for Dartford High Street. The Premises is licenced under the Licensing Act 2003 and has held a Licence since May 2018.

The application to vary the premises was received on the 8 June 2020 and the consultation period ran between the 9 June 2020 and the 6 July 2020, during this period blue notices were displayed at the premises, in a local newspaper and on the Council's website.

During the consultation period, representations were received from the Police, Environmental Health and an interested party. All the objections to the application are based on how granting the licence will have an effect on the licensing objectives of the prevention of crime and disorder, prevention of public nuisance and public safety.

7. Conclusion:

This application is for the Sub-Committee to determine in light of the representations received, the evidence before it and the promotion of the licensing objectives.

8. Relationship to the Corporate Plan

Not Applicable.

9. Financial, legal, staffing and other administrative implications and risk assessments

Financial Implications	None
Legal Implications	As included in Secretary of State's Guidance.
Staffing Implications	None
Administrative Implications	None
Risk Assessment	As included in Secretary of State's Guidance.

10. Appendices:

Appendix A: Variation application

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Appendix B: Current Premises Licence

Appendix C: Representation from Police

Appendix D: Representation from Environmental Health

Appendix E: Representation from Interested Party

Appendix F: Local Policy Considerations

Appendix G: Secretary of State Guidance Considerations.

BACKGROUND PAPERS

<u>Documents consulted</u>	<u>Date</u>	<u>File Ref</u>	<u>Report Author</u>	<u>Section and Directorate</u>	<u>Exempt Information Category</u>
Application Form	8 June 2020		Joanne Philpott 01322 343024	Licensing Strategic	N/A
All other documents mentioned	25 June to 6 July 2020		Joanne Philpott 01322 343024	Licensing Strategic	N/A