



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**LICENSING SUB-COMMITTEE
28 SEPTEMBER 2020**

**APPLICATION FOR A REVIEW OF A PREMISES LICENCE AT THE JOLLY
SAILOR, CHURCH STREET, MALDON, ESSEX, CM9 5HP**

1. PURPOSE OF THE REPORT

- 1.1 The Committee is requested to consider an application made by Environmental Health to Review the said premises licence under Section 51 of the Licensing Act 2003 and have regard to representations made during the consultation period that followed, in line with the promotion of the following licensing objectives, namely:
- a) The prevention of crime and disorder;
 - b) The prevention of public nuisance;
 - c) The protection of children from harm.

2. RECOMMENDATION

- 2.1 There are no recommendations, but in considering the representations received and what is appropriate for the promotion of the licensing objectives, the steps the Committee can take are outlined in paragraph 4.2 of this report.

3. SUMMARY OF KEY ISSUES

- 3.1 The Jolly Sailor is a public house which is situated on the corner of The Hythe and Church Street. A copy of the premises licence is attached at **APPENDIX A**.
- 3.2 On 10 August 2020, the Licensing Department received an application for a review of the Premises Licence from Environmental Health (at Maldon District Council) for The Jolly Sailor, Church Street, Maldon, Essex, CM9 5HP on the grounds of the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm. A copy of the full application for a review of the Premises Licence at The Jolly Sailor is attached as **APPENDIX B**.
- 3.3 The application has been properly made in accordance with The Licensing Act 2003 and all procedures correctly followed. The public notice was properly displayed, and copies of the application served on the Premises Licence Holder and Responsible Authorities. The application was also advertised on the Councils website.
- 3.4 During the consultation period responses have been received from five members of the public. I have attached these responses as **APPENDIX C**.

3.5 **Licensing history**

- 3.5.1 The current licence was grandfathered in 2005 from the Magistrates.
- 3.5.2 The licence holders are Mr Alan Daniel Brett and Mrs Kerry Ann Bretton whom the review application was served.
- 3.5.3 The Designated premises supervisor (DPS) is Mr Alan Daniel Brett who has been in this role from 06.09.2019.

3.6 **Legal Implications**

- 3.6.1 The Licensing Authority is required to hold a hearing to consider the review application and any relevant representations made. The hearing must be held in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.
- 3.6.2 The Committee is required to give appropriate weight to the review application, representations (including supporting information) presented by all the parties, the Guidance issued pursuant to section 182 of the Licensing Act 2003, the Council's statement of licensing policy and the steps (if any) that are appropriate to promote the four licensing objectives.
- 3.6.3 Having considered those relevant matters, the Licensing Committee can take such of the following steps (if any) as it considers appropriate for the promotion of the licensing objectives:
 - 1. To modify the conditions of the licence;
 - 2. To exclude any of the licensable activities from the scope of the licence;
 - 3. To remove the designated premises supervisor;
 - 4. To suspend the licence for a period not exceeding 3 months;
 - 5. To revoke the licence and for this purpose the conditions of the licence are modified if any of them are altered or omitted or any new condition added.
- 3.6.4 If the Committee takes a step mentioned in 1 or 2 of paragraph 3.6.3 above, it can specify that the modification or exclusion is to have effect for a period up to three months if it considers this to be appropriate.
- 3.6.5 It should be noted that:
 - clear reasons must be given for the decision;
 - any additional or modified conditions should be practical and enforceable;
 - the applicant for the review, the premises licence holder and any person who made relevant representations would have the right of appeal to a magistrates' court on one of the grounds provided in schedule 5 to the Licensing Act 2003.
- 3.6.6 In addition to determining the application in accordance with the legislation, Members must have regard to the:
 - common law rules of natural justice (i.e. ensuring a fair and unbiased hearing etc);

- provisions of the Human Rights Act 1998;
- considerations in section 17 of the Crime and Disorder Act 1998.

3.6.7 The Panel must also act appropriately with regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms implemented under the Human Rights Act 1998, particularly articles 6 (relating to the right to a fair trial); article 8 (protection of private and family life); and article 1 of the First Protocol (protection of property).

3.6.8 The Panel, when exercising its powers, must consider section 17 of the Crime and Disorder Act 1998 which states:

‘without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies 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.’

3.7 **Licensing Policy**

3.7.1 The relevant sections of the Statement of Licensing Policy are brought to the attention of members and are as follows:

74. When addressing the issue of crime and disorder, an applicant should demonstrate that those factors that impact on crime and disorder have been considered. These specifically include:
- underage drinking;
 - drunkenness on premises;
 - public drunkenness;
 - drugs;
 - violent behaviour; and
 - anti-social behaviour.
81. The Licensing Authority interprets the term public nuisance in relation to its meaning in common law. This includes issues such as noise nuisance, light pollution, noxious smells, litter and anti-social behaviour where these interfere with the public as a class of citizens and not merely one person.
82. Applicants should demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained with the intention of preventing public nuisance, relevant to the individual style and characteristics of their premises and events.
85. When addressing the issue of prevention of public nuisance, an applicant should demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:
- location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship;
 - hours of opening, particularly between 23:00 and 08:00 hours;

- nature of activities to be provided, the customer profile, whether the activities are of a temporary or permanent nature and whether they are to be held inside or outside premises;
 - design and layout of premises, in particular the presence of noise limiting features;
 - number of people attending the premises;
 - availability of public transport;
 - a wind down period between the end of the licensable activities and closure; and
 - last admission time.
92. Applicants should demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events.
93. Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, an applicant should demonstrate that those factors that impact on harm to children have been considered. Areas that will give particular concern in respect of children include:
- where entertainment or services of an adult or sexual nature are provided;
 - where there have been convictions of members of the staff at the premises for serving alcohol to minors or where the premises has a reputation for underage drinking;
 - where there is a known association with drug taking or dealing;
 - where there is a strong element of gambling on the premises; and
 - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
94. The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and / or activities:
- effective and responsible management;
 - provision of sufficient number of people employed or engaged to secure the protection of children, including child performers, from harm;
 - adoption of best practice or guidance (e.g. The Portman Group Code of Practice on Naming, Packaging and Promotion of Alcoholic Drinks);
 - limitation on the hours when children may be present in all or parts of the premises;
 - limitation or exclusions by age when certain activities are taking place;
 - measures to ensure children do not purchase, acquire or consume alcohol; and

- measures to ensure children are not exposed to incidents of violence or disorder.

4. CONCLUSION

4.1 Members must consider the representations made by the Applicant, consider the licensing objectives, Statutory guidance and Licensing Policy and determine this application

4.2 Members are advised that they have the following options if they decide when determining this application:

- Reject any ground for review if it is satisfied that the ground is not relevant to one or more of the licensing objectives;
- To modify the conditions of the licence so as to add, amend or remove any of them;
- To exclude a licensable activity from the scope of the licence;
- To remove the Designated Premises Supervisor;
- To suspend the licence for up to three months;
- Revoke the licence.

4.3 An appeal against the review decision may be made within 21 days of the notification of the decision by the Licensing Sub-Committee, by the licence holder, Environmental Health or any other person making relevant representation.

5. IMPACT ON STRATEGIC THEMES

5.1 None.

6. IMPLICATIONS

- (i) **Impact on Customers** – None.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – None.
- (iv) **Impact on Resources (financial)** – None.
- (v) **Impact on Resources (human)** – None.
- (vi) **Impact on the Environment** – None.
- (vii) **Impact on Strengthening Communities** - None.

Background Papers: None.

Enquiries to: Lacey Latimer, Licensing Officer.