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LICENSING SUB COMMITTEE

10 DECEMBER 2019

A meeting of the Licensing Sub Committee will be held at **10.00 am on Tuesday, 10 December 2019** in the Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Membership:

Councillors: Bambridge, Currie and Wright

A G E N D A

Item
No

Subject

1. **ELECTION OF CHAIRMAN**

2. **APOLOGIES FOR ABSENCE**

3. **DECLARATIONS OF INTEREST** (Pages 3 - 4)

To receive any declarations of interest. Members are advised to consider the advice contained within the Declaration of Interest advice attached to this Agenda. If a Member declares an interest, they should complete the [Declaration of Interest Form](#)

4. **APPLICATION FOR VARIATION TO PREMISES LICENCE: CNS NEWS, HIGH STREET, MARGATE** (Pages 5 - 16)

Annexes 2 and 3 to follow.

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Do I have a Disclosable Pecuniary Interest and if so what action should I take?

Your Disclosable Pecuniary Interests (DPI) are those interests that are, or should be, listed on your Register of Interest Form.

If you are at a meeting and the subject relating to one of your DPIs is to be discussed, in so far as you are aware of the DPI, you **must** declare the existence **and** explain the nature of the DPI during the declarations of interest agenda item, at the commencement of the item under discussion, or when the interest has become apparent

Once you have declared that you have a DPI (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must**:-

1. Not speak or vote on the matter;
2. Withdraw from the meeting room during the consideration of the matter;
3. Not seek to improperly influence the decision on the matter.

Do I have a significant interest and if so what action should I take?

A significant interest is an interest (other than a DPI or an interest in an Authority Function) which:

1. Affects the financial position of yourself and/or an associated person; or
Relates to the determination of your application for any approval, consent, licence, permission or registration made by, or on your behalf of, you and/or an associated person;
2. And which, in either case, a member of the public with knowledge of the relevant facts would reasonably regard as being so significant that it is likely to prejudice your judgment of the public interest.

An associated person is defined as:

- A family member or any other person with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- Any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- Any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000;
- Any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- any body in respect of which you are in a position of general control or management and which:
 - exercises functions of a public nature; or
 - is directed to charitable purposes; or
 - has as its principal purpose or one of its principal purposes the influence of public opinion or policy (including any political party or trade union)

An Authority Function is defined as: -

- Housing - where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease; or
- Any allowance, payment or indemnity given to members of the Council;
- Any ceremonial honour given to members of the Council
- Setting the Council Tax or a precept under the Local Government Finance Act 1992



If you are at a meeting and you think that you have a significant interest then you **must** declare the existence **and** nature of the significant interest at the commencement of the matter, or when the interest has become apparent, or the declarations of interest agenda item.

Once you have declared that you have a significant interest (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must:-**

1. Not speak or vote (unless the public have speaking rights, or you are present to make representations, answer questions or to give evidence relating to the business being discussed in which case you can speak only)
2. Withdraw from the meeting during consideration of the matter or immediately after speaking.
3. Not seek to improperly influence the decision.

Gifts, Benefits and Hospitality

Councillors must declare at meetings any gift, benefit or hospitality with an estimated value (or cumulative value if a series of gifts etc.) of £25 or more. You **must**, at the commencement of the meeting or when the interest becomes apparent, disclose the existence and nature of the gift, benefit or hospitality, the identity of the donor and how the business under consideration relates to that person or body. However you can stay in the meeting unless it constitutes a significant interest, in which case it should be declared as outlined above.

What if I am unsure?

If you are in any doubt, Members are strongly advised to seek advice from the Monitoring Officer or the Committee Services Manager well in advance of the meeting.

If you need to declare an interest then please complete the declaration of [interest form](#).

**APPLICATION FOR VARIATION TO PREMISES LICENCE:
CnS NEWS, HIGH STREET, MARGATE**

Licensing Sub-Committee **10 December 2019**

Report Author **Penny Button, Head of Safer Neighbourhoods**

Portfolio Holder **Cllr Whitehead**

Status **For Decision**

Classification: **Unrestricted**

Ward: **Margate Central**

Executive Summary:

To consider this application for a variation of premises licence for the removal of conditions in light of representations from Kent Police.

Recommendation(s):

The instructions of the Sub-Committee are requested.

CORPORATE IMPLICATIONS

Financial and Value for Money	<p>Costs associated with processing the application are taken from licensing fee income.</p> <p>The applicant or any other person (objector) may appeal the Committee's decision to Magistrates' Court within 21 days. Should this decision be appealed the the Council will incur costs defending the appeal. Should the appeal be successful it could result in costs being awarded against the Council. Therefore all decisions should ensure that they are in line with the objectives of the Licensing Act 2003.</p>
Legal	<p>Under the Licensing Act 2003 the Licensing Authority has a duty to exercise licensing control of relevant premises.</p> <p>The Licensing Sub-Committee is obliged to determine applications with a view to promoting the four licensing objectives.</p> <p>Any decision the Licensing Sub-Committee make should be made with regard to the Secretary of State's guidance made under Section 182 of the Licensing Act 2003 (revised in April 2017) as well as Thanet District Councils adopted Licensing Policy.</p> <p>Where any decision parts from either the Guidance or the Policy clear and cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal/challenge is increased. Similarly the risk of appeal/challenge is increased if any decision made is not evidence based and proportionate.</p> <p>The Licensing Sub-Committee must pay proper attention to the applicant's rights under the provisions of the Human Rights Act 1998, which gives further effect in the United Kingdom to the fundamental rights and</p>

Agenda Item 4

	<p>freedoms contained in the European Conventions on Human Rights. The Licensing Sub-Committee must have proper regard to the rights of the individual applicant when making decisions that affect them. However, it also has to have regard to the safety and protection of the public and therefore to ensure that the right balance is found and think hard about how it can cause the least possible harm to individuals, bearing in mind its duty to ensure the protection of the public.</p> <p>The effective regulation of licensable activities and of premises at which licensable activities take place can assist in safeguarding children and vulnerable adults.</p> <p>Section 17 of the Crime and Disorder Act 1998 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 function on, and the need to do all that is reasonably can to prevent crime and disorder in its area"</p> <p>In considering this application the Licensing Sub-Committee will balance the competing Human Rights of the various parties including the right to respect for private and family life, the protection of property and the right to a fair hearing.</p> <p>There is a right of appeal to a Magistrates' Court within 21 days of the date of the decision of the Licensing Sub-Committee with regard to the grant/refusal of a licence or any of the conditions attached to it.</p>
Corporate	<p>Corporate Priorities 1,2 & 3 and Values 1, 2 & 3 should be taken into account when determining the outcome of any application.</p> <p>Priority 1: A clean and welcoming environment</p> <p>Priority2: Supporting Neighbourhoods</p> <p>Priority 3: Promoting inward investment and job creation</p> <p>Value 1: Delivering value for money</p> <p>Value 2: Supporting the workforce</p> <p>Value 3: Promoting open communications.</p>
Equality Act 2010 & Public Sector Equality Duty	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.</p> <p>In considering this application it is appropriate to consider the rights of both the applicant and other parties, such as "responsible authorities" and/or "other persons" (objectors). The procedure for determining licences has a prescribed format to ensure fair representation of the relevant facts by all parties.</p>

CORPORATE PRIORITIES (tick those relevant) ✓	
A clean and welcoming Environment	✓

CORPORATE VALUES (tick those relevant) ✓	
Delivering value for money	✓

Promoting inward investment and job creation	✓
Supporting neighbourhoods	✓

Supporting the Workforce	
Promoting open communications	✓

1.0 Introduction and Background

- 1.1 An application for variation of the premises licence of CnS News, High Street, Margate. The application requests the removal of a number of conditions in Annex 2 of the licence. These are conditions:
1. No beer, cider or alcoholic drink that is not wine or spirit shall be above 7% AVB.
 2. All spirits shall be placed behind the counter.
 4. Intoxicated street drinkers shall not be served and shall be dealt with robustly.
 6. No beer, cider or any alcoholic drink that is not wine or spirit.
- A copy of the application can be found in Annex 1.

2.0 The Current Situation

- 2.1 Applicants for a variation to a premises licence are required, as part of the licensing procedure, to display a public notice which provides information to the public regarding the manner in which representation may be made. Similarly, public notice of the application should be published in a local newspaper circulating in the vicinity of the premises. These requirements appear to have been complied with.
- 2.2 Representations must relate to the undermining of the licensing objectives, the prevention of crime and disorder, public safety, the prevention of public nuisance, the protection of children from harm.
- 2.3 Representations from Kent Police relating to all licensing objectives can be found at Annex 2. No further representations have been received.
- 2.4 A copy of the existing licence is available in Annex 3.
- 2.5 The Licensing Sub-Committee will be aware that it must carry out its functions under the 2003 Licensing Act to take steps which are appropriate for the promotion of the licensing objectives. The Licensing objectives are:- the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm. In carrying out its licensing functions, the Licensing SubCommittee must also have regard to its statement of licensing policy and the Guidance issued under the Act.
- 2.6 The four licensing objectives are the matters the Licensing Sub-Committee must address when considering whether to agree this temporary event notice or issue a counter notice. Each application should be considered on its merits. Reasons must be given for any decision made by the Sub-Committee.

3.0 Options

- 3.1 Accept the application for variation and issue the amended licence.
- 3.2 Reject the application for variation.

Contact Officer:	Penny Button, Head of Safer Neighbourhoods
Reporting to:	Gavin Waite, Director of Operational Services

Annex List

Annex 1	Copy of Application
Annex 2	Kent Police Representations
Annex 3	Premises Licence

Background Papers

Title	Details of where to access copy
Licensing Act 2003	https://www.legislation.gov.uk/ukpga/2003/17/contents
DCMS Guidance documents issued under Section 182 of the Licensing Act 2003 (as amended)	https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003
Thanet District Council Statement of Licensing Policy	https://www.thanet.gov.uk/media/3168621/licensing-document-2016.pdf

Describe Briefly The Nature Of The Proposed Variation

Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.

The premises are a well-established convenience store located in Margate town centre. This application is to remove some of the conditions that were applied to the licence as part of a minor variation on 12th April 2018 due to the reasons that are submitted to the licensing authority under separate cover.

Conditions to be removed from the licence:

1. No beer, cider or any alcoholic drink that is not wine or spirit shall be above 7%.
2. All spirits shall be placed behind the counter
3. Intoxicated street drinkers not to be served and dealt with robustly
4. No beer, cider or any alcohol drink that is not wine or spirit shall be sold in single units.

Section 4 of 18

PROVISION OF PLAYS

See guidance on regulated entertainment

Will the schedule to provide plays be subject to change if this application to vary is successful?

Yes No

Section 5 of 18

PROVISION OF FILMS

See guidance on regulated entertainment

Will the schedule to provide films be subject to change if this application to vary is successful?

Yes No

continued from previous page...

Section 6 of 18

PROVISION OF INDOOR SPORTING EVENTS

See guidance on regulated entertainment

Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?

- Yes No

Section 7 of 18

PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

See guidance on regulated entertainment

Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?

- Yes No

Section 8 of 18

PROVISION OF LIVE MUSIC

See guidance on regulated entertainment

Will the schedule to provide live music be subject to change if this application to vary is successful?

- Yes No

Section 9 of 18

PROVISION OF RECORDED MUSIC

See guidance on regulated entertainment

Will the schedule to provide recorded music be subject to change if this application to vary is successful?

- Yes No

Section 10 of 18

PROVISION OF PERFORMANCES OF DANCE

See guidance on regulated entertainment

Will the schedule to provide performances of dance be subject to change if this application to vary is successful?

- Yes No

Section 11 of 18

PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE

See guidance on regulated entertainment

Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful?

- Yes No

Continued from previous page...

Section 12 of 18

PROVISION OF LATE NIGHT REFRESHMENT

Will the schedule to provide late night refreshment be subject to change if this application to vary is successful?

Yes No

Section 13 of 18

SUPPLY OF ALCOHOL

Will the schedule to supply alcohol be subject to change if this application to vary is successful?

Yes No

Section 14 of 18

ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Provide information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

N/A

Section 15 of 18

HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the day of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

Continued from previous page...

FRIDAY

Start	<input type="text" value="06:00"/>	End	<input type="text" value="23:00"/>
Start	<input type="text"/>	End	<input type="text"/>

SATURDAY

Start	<input type="text" value="06:00"/>	End	<input type="text" value="23:00"/>
Start	<input type="text"/>	End	<input type="text"/>

SUNDAY

Start	<input type="text" value="06:00"/>	End	<input type="text" value="23:00"/>
Start	<input type="text"/>	End	<input type="text"/>

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

Reasons why I have failed to enclose the premises licence or relevant part of premises licence.

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Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

As existing

b) The prevention of crime and disorder

As existing

c) Public safety

As existing

d) The prevention of public nuisance

As existing

e) The protection of children from harm

As existing

Section 17 of 18

NOTES ON REGULATED ENTERTAINMENT

C & S News variation - Additional Information

This premises licence was subjected to a licence review that took place on the 13th June 2019 at which, after hearing the evidence, the committee took no action against the licence holder.

During the review concerns were raised by Counsel for the licence holder about how certain conditions had been placed on the licence by way of a Minor Variation application on 12th April 2018. A total of 7 conditions were placed on the licence on an apparently 'voluntary' basis. In being advised to make the application the licence holder had been told that all other stores were doing the same and understood that there would be the same restrictions on all off licences in the area and it was on that basis alone that he agreed to make the application. It transpired that other stores had not made an application and he had been misled. In addition, rather than an understanding existing that the application was of a voluntary nature, the licence holder felt pressured into making it under the direction of the authorities.

Had the licence holder realised he was fully entitled to refuse to apply the conditions he would never have agreed to apply them and consequently they should not be on this premises licence.

Therefore, the licence holder, under legal advice, is applying to have the following conditions (applied as part of the minor variation) removed from the licence due to them being unnecessary, unduly onerous and applied due to misleading information supplied to him.

The conditions are:

1. No beer, cider or any alcoholic drink that is not wine or spirit shall be above 7%.
2. All spirits shall be placed behind the counter
3. Intoxicated street drinkers not to be served and dealt with robustly
4. No beer, cider or any alcohol drink that is not wine or spirit shall be sold in single units.

The conditions relating to Challenge 25, refusals register and invoices to remain.

