

MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 SUB-COMMITTEE

MINUTES OF THE MEETING HELD ON 16 JUNE 2022

Present: Councillor Brindle (Chairman) and
Councillors English and Joy

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

3. ELECTION OF THE CHAIRMAN

RESOLVED: That Councillor Brindle be elected as Chairman of the meeting.

4. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

5. DISCLOSURES OF LOBBYING

Councillor English said that whilst not exactly lobbying, he had had a conversation with Councillor Mrs Robertson, a Ward Member, about the application to be considered.

6. EXEMPT ITEMS

RESOLVED: That the items on the agenda be taken in public as proposed except for the Sub-Committee's deliberations regarding the application for a new premises licence which will take place in private.

7. QUESTION AND ANSWER SESSION FROM LOCAL RESIDENTS

There were no questions from local residents.

8. QUESTIONS FROM MEMBERS TO THE CHAIRMAN

There were no questions from Members to the Chairman.

9. APPLICATION FOR A NEW PREMISE LICENCE UNDER THE LICENSING ACT 2003 FOR PIRAGATHI LIMITED, 2 - 3 APPELDRE COURT, HILDENBOROUGH CRESCENT, MAIDSTONE, KENT, ME16 0PA

The persons participating in the hearing were identified as follows:

Chairman – Councillor Brindle
Committee Members – Councillors English and Joy
Legal Advisor – Helen Ward
Democratic Services Officer – Debbie Snook
Senior Licensing Officer – Lorraine Neale
Applicant – Kajanan Gnanasegaram (remotely)
Applicant’s Representative – Gill Sherratt (remotely)

There were no representatives of responsible authorities or other interested parties in attendance.

Written objections had been received from Mrs Laura Green who was unable to attend the hearing.

The Sub-Committee agreed to proceed in the absence of the objector whilst having regard to her written representations.

All parties confirmed that they were aware of the Sub-Committee hearing procedure and that they had each received a copy of the hearing procedure document.

The Sub-Committee Members confirmed that they had pre-read the papers regarding the hearing.

The Senior Licensing Officer outlined the application and the objections received from Mrs Green. It was noted that:

- The application had been made by Piragathi Limited for a new premises licence under the Licensing Act 2003 in respect of the premises 2-3 Appledore Court, Hildenborough Crescent, Maidstone, Kent. The licensable activity applied for was the sale and supply of alcohol for consumption off the premises between the hours of 7.00 a.m. and 11.00 p.m. Monday-Sunday with the same opening days and hours.
- No objections had been received from the responsible authorities in respect of the application.
- One objection had been received from another party on the grounds of all four licensing objectives (Crime and Disorder, Public Safety, Public Nuisance and Protection of Children from Harm).
- The concerns were that:

Granting a licence at these premises would increase the level of anti-social behaviour in the neighbourhood. The premises could encourage

people who buy alcohol late to remain in the area because of a local nearby park. They could potentially use the park to consume their alcohol and ultimately cause disturbance. There was also the potential for criminal activity, criminal damage, theft, burglary, assault and drug taking.

The store could also increase the volume of traffic to the area and to a later time which would increase the danger for residents and children crossing the road. It would also be detrimental to residents with regard to traffic noise continuing later into the evening and increased vehicle parking causing nuisance to residents.

Ms Sherratt, the applicant's representative, then made her opening statement.

Ms Sherratt explained that:

- Mr Gnanasegaram was the sole director of the company (Piragathi Limited) and had significant experience in selling alcohol. He had worked at Maidstone Food and Wine for over four years and had held a personal licence for over two years. He had never encountered any problems with alcohol sales.
- After being an employee for all this time, Mr Gnanasegaram had decided to open his own business and invest in his future, which was the reason for the application. He was investing over £40,000 in the premises and had chosen to partner up with Premier/Booker. His store would be a Premier convenience store. The premises consisted of two empty units that were being combined to create a modern convenience store for local people. All types of convenience products would be sold including fresh and frozen food and toiletries, with lottery tickets and pay point etc. Alcohol would form approximately 10-15% of the goods on sale and it was not the intended focus of the business.
- The investment would result in the installation of high spec equipment such as CCTV with remote access and 31-day recordings, tills with prompts regarding the 'Challenge 25' policy and the register of refusals of alcohol, and security alarms.
- The alcohol would be located near to the tills so that it could be supervised easily.
- The applicant would be partnering with Premier/Booker and would have support from them. The applicant would be the Designated Premises Supervisor. Once the store was open, he would leave his other job to take on the premises full-time with a full-time assistant manager who also held a personal licence and had sold alcohol for over two years. If the applicant was not on the premises, the other personal licence holder would be there. There might be a need for another part-time member of staff, but staffing would be kept under review for some time.

- In terms of training, this would be undertaken through Licensing Matters online e-learning and refreshed. Other policies and procedures would include 'Challenge 25', retention at the premises of a register of refusals of alcohol, and the forms of identification that would be accepted.
- In terms of consultation, none of the responsible authorities had raised concerns, including the Police. The points raised by the one concerned resident were speculative. In terms of litter, bins would be provided outside the premises.

In response to questions:

The applicant's representative confirmed that:

- Responsible staff would be on site when the premises were open for the sale of alcohol to make sure that it was sold correctly.
- There was no objection to the amendment of the condition relating to staff training to require that all staff employed at the premises will receive training on the Licensing Act 2003, including input on preventing underage sales, preventing sales of alcohol to people who are drunk and any other relevant matters prior to making sales of alcohol, rather than on first appointment.
- In terms of the applicant's experience, he had been and was still working in the same kind of business (Maidstone Food and Wine). He would leave that job should the licence be granted and his business open.

The Senior Licensing Officer advised the Sub-Committee that she was not aware of any existing anti-social behaviour issues associated with other premises in the area that already had licences to sell alcohol.

The applicant indicated that he had nothing further to add.

In making her closing statement, the applicant's representative reiterated the position of the responsible authorities and indicated that she had nothing further to add other than this was a robust application.

The Sub-Committee retired into private session to deliberate with the Legal Advisor present.

The hearing was adjourned from 2.25 p.m. to 2.40 p.m.

The Sub-Committee returned, and the Legal Advisor announced that:

The Sub-Committee welcomed the information provided by the applicant's representative in particular in respect of staff training and presence at the premises. The Sub-Committee carefully considered the concerns raised by the interested party in respect of people taking alcohol from the premises to the nearby playground and they felt that staff training would

go a long way to prevent this. On that basis, the decision of the Sub-Committee was to grant the application as sought, with an amendment to the condition which has been offered in respect of staff training so that it reads:

Prior to making sales of alcohol, all staff employed at the premises will receive training on the Licensing Act 2003 including input on preventing underage sales, preventing sales of alcohol to people who are drunk and any other relevant matters. Training shall be regularly refreshed at no less than annual intervals. The training must be recorded and be accessible on the premises and made available for inspection upon request of a Police Officer or an authorised officer of the licensing authority or (in the case of online training) within 48 hours.

It was confirmed that a written decision notice would be provided and that there was a right of appeal to the Magistrates Court.

RESOLVED: That the Sub-Committee's decision and reasons be as set out within the Notification of Determination attached as Appendix A to these Minutes.

The hearing closed at 2.45 p.m.



LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL

**LICENSING ACT 2003
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

NOTICE OF DETERMINATION

Application Ref No: 22/01328/LAPRE

Applicant: PIRAGATHI LIMITED
Regarding 2 - 3 Appledore Court, Hildenborough Crescent, Maidstone,
Kent, ME16 0PA

Date(s) of hearing: 16 June 2022

Date of determination: 16 June 2022

Committee Members: [Chairman]: Councillor Brindle (Chair)
Councillor English
Councillor Joy

Legal Advisor in attendance at hearing(s): Helen Ward, Lawyer (Contentious), MKLS

Democratic Services Officer in attendance at hearing: Debbie Snook

Senior Licensing Officer for application: Lorraine Neale

This was an application for:

- Variation Grant
 Provisional Statement Review Other

for a

- Premises Licence Club Premises Certificate Personal Licence
 Temporary Event Notice

A: Representations, evidence and submissions:

The Committee considered the representations, evidence and submissions of the following parties:

Applicant

Mr Kajanan Gnanasegaram (Applicant)
Gill Sherratt (Applicant's Representative)

Responsible Authorities

N/A

Other Persons

N/A

Witnesses and legal representatives in support of interested parties

N/A

Representations considered in the absence of a party to the hearing:

Representation made by Laura Green

B: Consideration of the Licensing Act 2003, the Guidance under s. 182 of the Act and the Statement of Licensing Policy of Maidstone Borough Council

The Committee has taken into account the following provisions of the Licensing Act 2003 and the Regulations thereto:

Section 4 which relates to the licensing objectives
Section 16-24 which relate to the grant of a premises licence;
Schedule 1 which relates to Regulated Entertainment

The Committee has taken into account the following provisions of the Guidance under section 182 of the Act:

Chapter 2 which relates to the licensing objectives
Chapter 8 & 9 which relates to premises licences & determinations
Chapter 10 which relates to conditions attached to licences;

The Committee has taken into account the following provisions of its Statement of Licensing Policy:

Chapter 17 which relates to the 4 licensing objectives;
Chapter 17.10 – 17.18 which relates to the prevention of crime and disorder;
Chapter 17.19 – 17.21 which relates to public safety
Chapter 17.22 – 17.25 which relates to the prevention of nuisance;
Chapter 17.26 – 17.29 which relates to the prevention of children from harm;

The Sub-Committee has decided to depart from the guidance under section 182 of the Act and or the statement of licensing policy for the following reasons:

N/A

**C: Determination:
The Committee has decided to:**

- Grant the application as sought with an amended condition as set out below.

Reasons for determination:

The Licensing Sub Committee considered an application for a premises licence for Piragathi Limited.

The Sub Committee heard from the Applicant's representative. The Interested Party was not in attendance and in their absence regard was had to the written representations.

The Sub Committee considered the national guidance and the Council's licensing policy, along with the licensing objectives.

■ **Prevention of Crime and Disorder**

Reasons (state in full):

The Sub Committee considered the concerns raised regarding anti social behaviour and noted that no objection had been made by the Police. They considered the conditions regarding staff training and CCTV would assist to promote this licensing objective. They considered the experience of the applicant that was explained during the hearing and welcomed confirmation that staff would be trained before making sales of alcohol, and that responsible staff would be on site when the premises was open for the sale of alcohol. The Sub-Committee were satisfied that the operating schedule provided by the applicant was appropriate and proportionate to promote this licensing objective, subject to the amendment to the condition discussed in the hearing.

■ **Public Safety**

Reasons (state in full):

The Sub-Committee were satisfied that the operating schedule provided by the applicant was appropriate and proportionate to promote this licensing objective.

■ **Prevention of nuisance**

Reasons (state in full):

The Sub Committee considered the concern raised regarding litter but were not persuaded that it was appropriate to take any further steps over and above those offered in the operating schedule. The Sub Committee considered the amendment to the condition regarding staff training alongside the proposed operating schedule, would ensure promotion of this licensing objective.

■ **Protection of children from harm**

Reasons (state in full):

The Sub-Committee were satisfied that the operating schedule provided by the applicant was appropriate and proportionate to promote this licensing objective subject to the amendment to the condition discussed in the hearing.

The Sub-Committee welcomed the information provided by the applicant's representative in particular in respect of staff training and presence at the premises. The Sub-Committee carefully considered the concerns raised by the interested party in respect of people taking alcohol from the premises to the nearby playground and they felt that staff training would go a long way to prevent this. On that basis, the decision of the Sub Committee is to grant the application as sought, with an amendment to the condition which has been offered in respect of staff training so that it reads:

Prior to making sales of alcohol, all staff employed at the premises will receive training on the Licensing Act 2003 including input on preventing underage sales, preventing sales of alcohol to people who are drunk and any other relevant matters. Training shall be regularly refreshed at no less than annual intervals. The training must be recorded and be accessible on the premises and made available for inspection upon request of a Police Officer or an authorised officer of the licensing authority or (in the case of online training) within 48 hours

The parties are notified that they may appeal the decision to the Magistrates Court within 21 days beginning with the date of notification of the written decision. Parties should be aware that the Magistrates Court may make an order with respect of the costs of any appeal. Entitlements to appeal for parties aggrieved by the decisions of the Licensing Authority are set out in Schedule 5 to the Licensing Act 2003.

PRINT NAME (CHAIRMAN): COUNCILLOR ANNE BRINDLE

Signed [Chairman]:

A copy of the original document is held on file

Date: 21 June 2022