

## Rother District Council

**Report to:** General Licensing Panel

**Date:** 21 August 2020

**Title:** Application for the review of a Premises Licence –  
Red Lion Inn, Brede Hill, Brede,  
East Sussex, TN31 6EJ.  
05/01539/LAPRE, 12/00016/LAPRE. WK2020024217

**Report of:** Head of Service Environmental Services, Licensing and  
Community Safety

**Ward(s):** Brede and Udimore

**Purpose of Report:** To determine the Review application made under Section 51  
of the Licensing Act 2003 for the Red Lion Inn, Brede Hill,  
Brede, East Sussex, TN31 6EJ.

**Officer**

**Recommendation(s):** It be **RESOLVED:** That the Review application made under  
Section 51 of the Licensing Act 2003, be determined.

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### 1. Introduction

An application has been made by the Council's Environmental Health Team (Food and Safety) for a Review of the Premises Licence in respect of the Red Lion Inn, Brede Hill, following a police report that the premises was open contrary to the Coronavirus Regulations, which applied at the time.

The application relates to the failure to uphold the 'prevention of crime and disorder' and 'public safety' licensing objectives.

#### 1.1 Applicant Details:

**Name:** Environmental Health Team (Food and Safety), Rother District Council, a responsible authority, as the enforcing authority for this premises within the meaning given by Section 18 of the Health and Safety at Work etc. Act 1974.

**Address:** Town Hall, Bexhill on Sea, East Sussex TN39 3JX.

#### 1.2 The Premises:

Details of the premises are as follows:-

Red Lion Inn, Brede Hill, Brede, East Sussex, TN31 6EJ.

**Location:**

The premises is situated on the A28 at the southern end of the village of Brede. The surrounding properties are predominately residential with St George's Church opposite.

(Please see the location plan and photographs in Appendices A and B).

**Description:**

The Red Lion Inn is described on its website as "*as a family run 15th Century Freehouse serving an interesting range of freshly cooked dishes.*"

**Existing Licence:**

05/01539/LAPRE / 12/00016/LAPRE.

The Premises Licence is reproduced at Appendix H.

The premises has the benefit of a Premises Licence which authorises the sale/supply of alcohol (on and off sales); regulated entertainment and late night refreshment.

The Premises Licence Holder is Natalie Campbell-Crabb of Red Lion Inn, Brede Hill, Brede, East Sussex, TN31 6EJ.

Natalie Campbell-Crabb is also the Designated Premises Supervisor (DPS) responsible for alcohol sales.

Licensing database records show that the licence was transferred to Natalie Campbell-Crabb in October 2018.

**2. The application for review**

On the 30 June 2020 the Council's Environmental Health Team (Food and Safety), a responsible authority, as the enforcing authority for this premises within the meaning given by Section 18 of the Health and Safety at Work etc. Act 1974 made an application (under Section 51 Licensing Act 2003) for a Review of the Premises Licence on the grounds that the 'prevention of crime and disorder' and 'public safety' licensing objectives were not being met during the lockdown period, contrary to the Health Protection (Coronavirus Restrictions) (England) Regulations 2020 (SI.2020: No.350) that applied at the time.

The application and relevant supporting information can be found at Appendices C, D, E, F and G; however, in summary, the grounds for the Review are related to incidents on the 8 and 9 May 2020:

- a) Consumption of alcohol on the premises in contravention of Coronavirus Regulations in place at that time.

Note: the premises was entitled to sell alcohol for consumption off the premises at this time; the alcohol did not need to be supplied in a closed container. The premises was also entitled to sell soft drinks and food at this time, but only for consumption off the premises.

- b) Gatherings of more than two persons in contravention of the Coronavirus Regulations in place at that time:  
<https://www.legislation.gov.uk/uksi/2020/350/regulation/7/made>
- c) Failure to prevent the spread of Covid 19.
- d) Contravention of Section 140 Licensing Act – ‘allowing disorderly conduct on licensed premises etc’.

A person commits an offence if he knowingly allows disorderly conduct on relevant premises. This applies to:

- (a) any person who works at the premises in a capacity, whether paid or unpaid, which authorises him to prevent the conduct.
- (b) in the case of licensed premises, to -
  - i. the holder of a premises licence in respect of the premises, and
  - ii. the DPS (if any) under such a licence.

A number of supporting documents for the review were provided by the applicant:

- Copy of the Environmental Health letter dated 17 April 2020.
- Statement from PC Jeffrey (Sussex Police).
- Statement from Ms Una Kane, Rother District Council.
- Statement from Mr S Ottley, Rother District Council.

The applicant therefore invites the General Licensing Panel to consider a review of the Premises Licence leading to the revocation of the premises licence or removal of the DPS.

Note: At the bottom of page 4 of PC Jeffrey’s statement, it states “...*licensing activities suspended as per...*”. PC Jeffrey’s statement also refers to the DPS, Natalie Campbell-Crabb, informing him the premises licence did not permit off-sales.

For clarification, not all licensing activities were prohibited at the time. The premises was entitled to sell alcohol (plus non-alcoholic drinks and food) for individual consumption away from the premises. However, those parts of the premises should have been closed in which food or drink were previously sold for consumption on the premises. All gatherings at the premises were prohibited.

## 2.1 Environmental health/licensing records

The environmental health database records (since 2015) show that there are no licensing or noise related complaints/incidents recorded. It records a Prohibition Notice dated 11 May 2020 on Natalie Campbell-Crabb. The Notice was served under The Health Protection (Coronavirus Restrictions) (England) Regulations 2020 (SI.2020: No.350) and required the following activities to cease immediately:

- selling of food or drink for consumption on the premises.
- close the premises or part(s) of the premises, in which food or drink are sold for consumption on the premises.

Planning records have not been checked.

## 3. Relevant representations of interested parties

The application has been subject to the usual public advertisement.

Interested parties	Relevant licensing 'objective'
None	

## 4. Representations of the responsible authorities

The Licensing Act 2003 requires that a copy of the review application is sent to the responsible authorities.

Rother DC Planning	No representation
Rother DC Env Health Pollution Team	No representation
Rother DC Env Health Food and Safety Team	Applicant
East Sussex Fire and Rescue Service	No representation
Sussex Police	No representation
ESCC Child Protection	None received
ESCC Public Health	None received
ESCC Trading Standards	None received

Home Office Immigration Enforcement	No representation
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5. The premises licence holder has not submitted any comments or documents that she wanted included in this report.

## 6. Summary

The Review application relates to failures to uphold the 'prevention of crime and disorder' and 'public safety' licensing objectives during the Coronavirus lockdown period and the applicant invites the Panel to consider reviewing the Premises Licence leading to the revocation of the premises licence or removal of the DPS.

## 7. Legislation

The Licensing Act 2003 requires that the Council, as the local Licensing Authority, carry out its functions with a view to promoting the four Licensing Objectives:

- a) The Prevention of Crime and Disorder
- b) Public Safety
- c) The Prevention of Public Nuisance
- d) The Protection of Children from Harm

In exercising those functions, the Licensing Authority must also have regard to Guidance issued by the Secretary of State and its own Statement of Licensing Policy.

Under Section 181 and Schedule 5 (Part 3) of the Licensing Act 2003, rights of appeal exist to the Magistrates' Court against the decision of the Licensing Authority. Such appeal may be made on behalf of:

- a) the applicant;
- b) the holder of the Premises Licence; or
- c) any other person who made relevant representations in relation to the application.

## 8. Consideration

When considering this Review application, under Section 52 Licensing Act 2003, the following options are available to the Panel:

- a) to modify the conditions of the Licence;
- b) to exclude a licensable activity from the scope of the Licence;
- c) remove the DPS;
- d) to suspend the Licence for a period not exceeding three months; or

e) to revoke the Licence,

and for this purpose, the conditions of the licence are modified if any of them is altered or omitted, or any new condition is added.

## **Implications**

### **Legal Implications**

9. The applicant and others party to the hearing have a right of appeal to the Magistrates' Court.

### **Human Rights**

10. Article 1 of the first protocol, Part II of the Act refers to the peaceful enjoyment of possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law. The Council's actions must therefore be necessary and proportionate and be in the public interest. In the interests of a fair trial under Article 6, the premises licence holder or his/her legal representative should be given an opportunity to address the Panel.

The Panel's decision making is guided by the principles of proportionality which require, amongst other things, the Panel to strike the appropriate balance between the competing interests of the applicant, the premises licence holder, the interested parties and the wider community. This balance is achieved by having regard to the provisions of the Licensing Act 2003; the Regulations and Guidance made thereunder, the Council's Statement of Licensing Policy and the Council's obligation to act in a way that is consistent with the provisions of the Human Rights Act 1998.

### **Crime and Disorder**

11. The Prevention of Crime and Disorder is a specific licensing objective and the Council also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in its district.

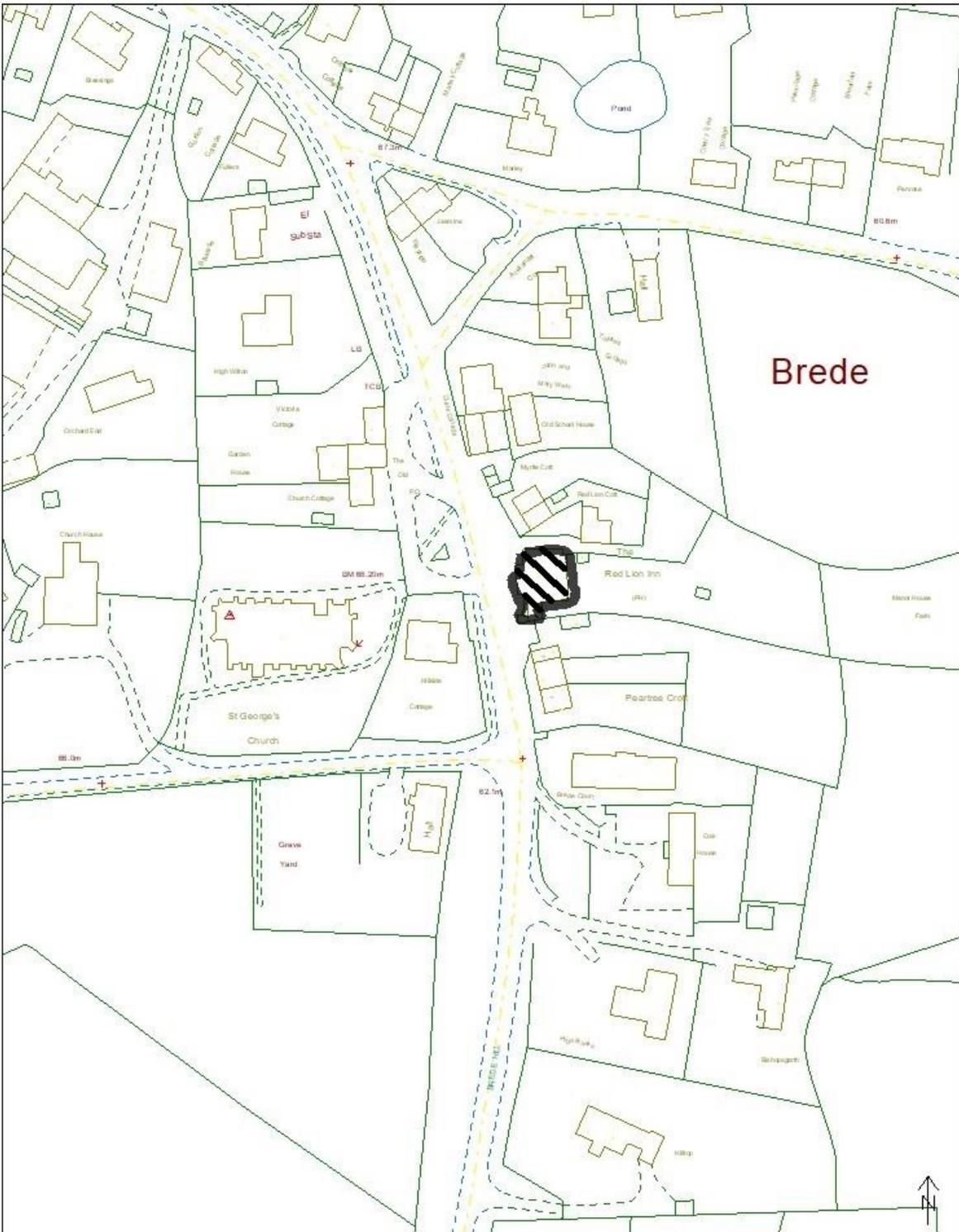
### **Conclusion**

12. Having considered the Review application, representations, written and oral submissions made at the hearing, the Panel shall determine the application.

<b>Other Implications</b>	<b>Applies?</b>	<b>Other Implications</b>	<b>Applies?</b>
Human Rights	<b>Yes</b>	Equalities and Diversity	No
Crime and Disorder	<b>Yes</b>	Consultation	No
Environmental	No	Access to Information	No
Sustainability	No	Exempt from publication	No
Risk Management	No		

Executive Director:	Malcolm Johnston
Proper Officer:	Richard Parker-Harding
Report Contact Officer:	Mark Randolph, Senior Licensing Officer
e-mail address:	mark.randolph@rother.gov.uk
Appendices:	Appendix A: Maps of the location Appendix B: Photographs Appendix C: Application for review Appendix D: Environmental Health letter 17/04/2020 Appendix E: Statement of PC Jeffrey (Sussex Police) Appendix F: Statement of Una Kane (Rother DC) Appendix G: Statement of Simon Ottley (Rother DC) Appendix H: Copy of the premises licence
Relevant Previous Minutes:	N/A
Background Papers:	NONE
Reference Documents:	Revised guidance issued under Section 182 of Licensing Act 2003 (Chapter 11 – Reviews) <a href="https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003">https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003</a>

Map of the location



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Photographs



Photograph 1: a view looking North towards the premises.



Photograph 2: a view looking South towards the premises.