



Licensing Sub-Committee

Notice of a meeting to be held in the Council Chamber, Civic Centre, Tannery Lane,
Ashford, Kent TN23 1PL on Thursday 30th April 2009 at 10.00 am

The Members of this Committee are:-

Cllrs. Feacey, Goddard, Woodford
Reserve Cllr Norris

Agenda

Page
Nos.

1. **Election of Chairman**
2. **Apologies/Substitutes** – To receive Notification of Substitutes in accordance with Procedure Rule 1.2(iii) and Appendix 4
3. **Declarations of Interest** - Declarations of Interest under the Code of Conduct adopted by the Council on the 24th May 2007 relating to items on this agenda should be made here. The nature as well as the existence of any such interest must also be declared
4. **Minutes** – To approve the Minutes of the Meeting of this Committee held on the 9th March 2009.

Matters for Decision

5. Hare and Hounds, Maidstone Road, Ashford, Kent TN25 4NR. Application for a variation of existing premises license.
 - (a) Clarification and Determination of Equal Maximum Time to be allocated to each party
 - (b) To note withdrawal of any representations
 - (c) The Hearing of the case.

KL/EB
14th April 2009

Ashford
best placed in Britain

Please refer to the Guidance Notes on the procedure to be follows at this meeting as attached to this Agenda

If you know the appellant(s) and have a possible conflict of interest or have any queries concerning the Agenda please contact Kirsty Liddell on 01233 330499



Agenda Item No:

Licence Reference **WK/200902188**

Report To: **LICENSING SUB COMMITTEE**

Date: **30TH APRIL 2009**

Report Title: **Licensing Act 2003 - Application from an existing licence holder to vary the premises licence –**

Hare & Hounds, Maidstone Road, Ashford, Kent, TN25 4NR

Report Author: Licensing Manager



Summary:

The report advises Members of a licence application under the provisions of the Licensing Act 2003.

Application type: **Application from an existing licence holder to vary the premises licence under the provisions of section 35(3)(a) to the Licensing Act 2003**

Applicant: **The Hare & Hounds (Ashford) Ltd**

Premises: **Hare & Hounds, Maidstone Road, Ashford, Kent, TN25 4NR**

Members are asked to determine whether to grant the variation of the premises licence.

Key Decision: NO

Affected Wards: Downs West

Recommendations: **The Committee is asked to determine the application and decide whether to grant the variation to the premises licence.**

Policy Overview: The decision is to be made with regard to the Licensing Act 2003, Secretary of State's Guidance issued under Section 182 of the Act and the Council's Statement of Licensing Policy. Where the decision departs from the Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and such departure must be supported by clear and cogent reasons.

Financial Implications: The costs associated with processing the application are taken from licensing fee income.

**Other Material
Implications:**

HUMAN RIGHTS: In considering this application the 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.

LEGAL: Under the Licensing Act 2003 the Council has a duty to exercise licensing control of relevant premises.

Exemption Clauses: Not applicable

**Background
Papers:** None

Contacts: james.hann@ashford.gov.uk – Tel: 01233 330721

Report Title: **Licensing Act 2003 - Application from an existing licence holder to vary the premises licence for the Hare & Hounds, Maidstone Road, Ashford, Kent, TN25 4NR**

Purpose of the Report

1. The report advises Members of a licence application under the provisions of the Licensing Act 2003.

Application type: **Application from an existing licence holder to vary the premises licence**

Applicant: **The Hare & Hounds (Ashford) Ltd**

Premises: **Hare & Hounds, Maidstone Road, Ashford, Kent, TN25 4NR**

Issue to be Decided

2. Members are asked to determine whether to grant the variation of the premises licence.

Background

The Licensing Objectives

3. The licensing authority must carry out its functions under the Licensing Act 2003 with a view to promoting the licensing objectives namely, the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm (LA 2003, s4 (1)).

Application details

4. The application is made by an existing licence holder to vary a premises licence.
5. See Appendix A for the Application to vary a Premises Licence. The application has been made in the proper manner.
6. In respect to the variation, representations have been received hence the determination coming before Members.

Additional steps

7. The applicant states within section P of the application form the additional steps they intend to take in order to promote the four licensing objectives if the proposed variation is granted.
8. The conditions put forward by the Licensing Manager as taken from section P of the application form are as given within Appendix E. Note it is the

responsibility of the Licensing Authority to prepare conditions that are “consistent” with the operating schedule (s.18).

9. It is stressed that while a licensing authority has no discretion to add or modify a condition where there is no relevant representation, it may not issue a licence with conditions that are illegal.

Representations from Responsible Authorities

10. A representation was received from the Environmental Control Officer (Appendix B) who visited the premises and subsequently spoke to the applicant suggesting a revision to the permitted hours and additional conditions. However this was only acceptable to the applicant in part, so the representation has not been withdrawn.
11. The Officer recommended that the permitted hours for the sale of alcohol and entertainment inside the premises be as follows:

Sunday	10:00 – 00:00
Monday	10:00 – 00:00
Tuesday	10:00 – 00:00
Wednesday	10:00 – 00:00
Thursday	10:00 – 00:00
Friday	10:00 – 02:00
Saturday	10:00 – 02:00

No drinks being permitted to be taken outside the premises any evening after 23:00. The applicant indicated that this condition and the amended hours would be acceptable.

12. The Officer recommended an additional condition that during any entertainment of an amplified nature inside the premises that all windows and doors remain closed.
13. With regard to non amplified music in the outside areas, the Officer feels it is impossible to contain the noise from the music within the grounds and therefore objects to the playing of any non amplified music outside.

Representations from Interested Parties

14. Five parties have made a representation. A summary of these representations is provided in Appendix C. Copies of the letters are contained in Appendix D.
15. The representations are from parties living in the area.
16. The representations can be summarised as follows:
 - The prevention of public nuisance and the prevention of crime and disorder are objectives raised with reference to the behaviour of customers leaving the premises.
 - The prevention of public nuisance is raised with reference to loud music coming from both within the premises and from music outside the

premises and the applicant's request to extend the days, hours and area for live & recorded music and the effect the potential noise nuisance this may cause.

- The prevention of public nuisance in reference to the request for extended hours for the sale of alcohol and people gathering outside the front of the premises in the designated smoking area and the potential noise nuisance this may cause.
 - The lack of parking and the potential for increased traffic which may cause a nuisance to those interested parties who have made representations. Members may wish to consider whether the applicant is responsible for these issues under the Licensing Act 2003.
 - Semi rural nature of the area.
17. Under section 35(5) of the Licensing Act 2003, representations are relevant if they are about the likely effect of the grant of the licence on the promotion of the licensing objectives and (subsection 6) are made by an interested party or responsible authority within the prescribed period, are not withdrawn or, in the opinion of the licensing authority, frivolous or vexatious.
18. The prescribed period for the receipt of such representations in this case is, by Regulation 22(b) of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 "during a period of 28 consecutive days starting on the day after the day on which the application to which it relates was given to the authority by the applicant". In this case the application was given to the authority on 13th March 2009 and the last date for receipt of relevant representations was therefore 11th April 2009.

Relevant premises history

19. The premises is a traditional-style public house with a central bar and small restaurant area, situated just off the Maidstone Road and adjacent to Sandyhurst Lane. There are residential properties in close proximity to the premises.
20. The current licence holder has been operating the business since December 2008.
21. The premises has held a public entertainment licence since at least 2000. In 2005 this was converted to a premises licence but no variation to the permitted hours of the sale of alcohol or entertainment was sought. The premises has only been licensed for entertainment inside.
22. The current premises licence, as in Appendix G, permits the sale of alcohol from 12:00 until 22:30 on Sunday and 10:00 until 23:00 Monday to Saturday, with extensions on Good Friday 12:00 until 22:30 and Christmas Day 12:00 until 15:00 and 19:00 until 22:30. The licence also permits live and recorded music, facilities for making music and dancing from 19:00 until 02:00 on Friday and Saturday, including New Year's Eve.

23. The application proposes to permit the sale of alcohol, live and recorded music, the provision of facilities for making music and dancing, indoors and outdoors from 10:00 until midnight on Sunday, from 10:00 until 01:00 Monday to Thursday and 10:00 until 02:00 Friday and Saturday with an extension 02:00 on New Year's Eve, Christmas Eve, Bank Holiday Mondays and Good Friday with the opening hours to match this. The application states that any music outside is to finish by midnight.
24. Members may wish to clarify the extent of the outside area as it is not clear from the plan which has been submitted with the application.
25. The application proposes that late night refreshment be permitted until the end of the permitted hours for the sale of alcohol.
26. The application proposes to remove all conditions consistent with the conversion of a public entertainment licence. Members may wish to clarify if it was the applicant's intention to apply vary the licence to also remove the embedded conditions.
27. Our records show that the Council has received one noise complaint regarding the Hare & Hounds.
28. A Licensing Officer has spoken to both the applicant and the objector at length but was unable to find a compromise that was acceptable to both parties.

Options

General

29. Members attention is drawn to the following matters:
 - All applications are to be considered on their merits as well as against the relevant policy and statutory framework.
 - Due regard should be given to the provisions of the Human Rights Act 1998, Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 and Section 17 of the Crime and Disorder Act 1998 and, so far as possible, reflect local crime prevention strategies.
 - The operating schedule forms part of the completed application form for a premises licence. The operating schedule should include information, which is necessary to enable any responsible authority or interested party to assess whether the steps to be taken to promote licensing objectives are satisfactory.
 - The licensing authority may not impose any conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It may then only impose such conditions as are necessary to promote the licensing objectives arising out of the consideration of the representations. However, in order to minimise problems and the necessity for hearings, it would be sensible for applicants to consult with responsible authorities when schedules are

being prepared. This would allow for proper liaison before representations prove necessary.

- Where problems have occurred, the application for the new licence or certificate will afford an opportunity for responsible authorities and interested parties to raise the issue through representations and for conditions addressing any nuisance previously caused to be attached following a hearing where necessary. The views of local residents will be important in establishing the extent of any history of problems.
- The conditions put forward within this report are suggested on the basis of:
 - information contained within the application form;
 - interested parties representations and
 - on those measures currently in existence.
- The 2003 Act requires licensing authorities following receipt of relevant representations to make judgements about what constitutes public nuisance and what is necessary, in terms of conditions attached to specific premises licences to prevent it. It is therefore important that in considering the promotion of this licensing objective, licensing authorities focus on impacts of the licensable activities at the specific premises on persons living and working (including doing business) in the vicinity that are disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- Public nuisance is not narrowly defined in the 2003 Act and retains its broad common law meaning for the Act's purposes. The prevention of public nuisance could therefore include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of interested parties (as defined in the 2003 Act) in the vicinity of licensed premises.
- Where applications have given rise to representations, any necessary and appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late evening or early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise may also prove necessary to address any disturbance anticipated as customers enter and leave the premises and therefore, in the immediate vicinity of the premises.
- In the context of preventing public nuisance, it is essential that conditions are focused on measures within the direct control of the licence holder. Conditions relating to public nuisance caused by the anti-social behaviour of customers once they are beyond the control of the licence holder, or premises management cannot be justified and will not serve to promote the licensing objectives in relation to the licensing activities carried on at the premises. Beyond the vicinity of the premises, these are matters for personal responsibility of individuals under the law. An individual who

engages in anti-social behaviour is accountable in his own right. However, it would be perfectly reasonable for a licensing authority to impose a condition it considered necessary following relevant representations from an interested party that requires the licence holder to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living near-by to a peaceful night. After a licence has been granted or varied, a complaint relating to a general (crime and disorder) situation in a town centre should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate.

- The Guidance states “the conditions that are necessary for the promotion of the licensing objectives should emerge initially from a prospective licensee’s risk assessment which should be undertaken by applicants or clubs before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule that it is proposed to take to promote the licensing objectives.”
- It is perfectly possible that in certain cases, because the test is one of necessity, where there are other legislative provisions, which are relevant and must be observed by the applicant, no additional conditions at all are needed to promote the licensing objectives.

Decision options

30. In addition to those matters outlined in the applications operating schedule if members are minded to grant the application they may wish to consider the following conditions:
- a) The playing of amplified music in outside areas of the premises is not permitted.
 - b) The playing of live and/or recorded music in outside areas is restricted to a set number of occasions per month/year.
 - c) All external doors and windows must be kept closed, other than for access and egress, in all rooms when events involving amplified music or speech are taking place.
 - d) Prominent, clear notices shall be displayed at all exits and in the garden/outside areas, requesting customers to respect the needs of local residents and leave the premises and the area quietly.
 - e) The licensee or a nominated representative shall receive and respond to complaints.

Legal options open to members

31. Members may grant the variation to the licence with no modifications to the conditions to the licence, modify the conditions of the licence or reject the whole or part of the application.

Consultation

32. All relevant parties have followed the consultation procedures required under the Licensing Act 2003.

Implications Assessment

33. The decision should be made with regard to the Secretary of State's Guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs 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.

Human Rights

34. While all Convention Rights must be considered, those which are of particular relevance to the application are:
- Article 8 - Right to respect for private and family life
 - Article 1 of the First Protocol - Protection of Property
 - Article 10 – Freedom of Expression

The full text of each Article is given in the attached Appendix F.

Handling

35. The timings for handling the application are set out in the Licensing Act 2003 and related regulations.

Conclusion

36. Members must ensure that the application is considered on its merits, as well as against the relevant guidance, policy and statutory framework.

Contact:	Licensing Manager
Email:	James.hann@ashford.gov.uk

APPENDIX C – SUMMARY OF REPRESENTATIONS FROM INTERESTED PARTIES

Name & Address	Representation Details
Tracey Butler, Environmental Control Officer, Civic Centre, Ashford, Kent TN23 1PL	OBJ Prevention of Public Nuisance
Mr L & Mrs L Sayer Tollgate Cottage, Maidstone Road, Ashford, Kent, TN25 4NR.	OBJ Prevention of Crime & Disorder Public Safety Prevention of Public Nuisance
Mr S & Mrs L Rusbridge, Crossways, Potters Corner, Maidstone Road, Ashford, Kent, TN25 4NR	OBJ Prevention of Crime & Disorder Public Safety Prevention of Public Nuisance Protection of Children from Harm
Mr Marcus Simon Uplands, 4 Sandyhurst Lane, Ashford, Kent, TN25 4NS	OBJ Public Safety Prevention of Public Nuisance
Mr & Mrs P Finn 6 Sandyhurst Lane, Ashford, Kent, TN25 4NS	OBJ Prevention of Public Nuisance
Mr Timothy Davis, Redriff, Potters Corner, Maidstone Road, Ashford, Kent, TN25 4NR.	OBJ Prevention of Crime & Disorder Public Safety Prevention of Public Nuisance Protection of Children from Harm

APPENDIX E
CONDITIONS CONSISTENT WITH THE APPLICANTS OPERATING SCEHDULE

GENERAL – ALL FOUR LICENSING OBJECTIVE

1. The Licence Holder will take such steps as are necessary to promote the four licensing objectives, i.e. the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.
2. The Licence Holder will ensure that all staff undertake training in legislation relevant to the promotion of the four licensing objectives and commensurate with their work activities.

THE PREVENTION OF CRIME & DISORDER

3. The Licence Holder will ensure that any person within the premises who appears to be intoxicated or who is behaving in a disorderly manner will not be served alcohol and will no longer be permitted to remain on the premises.

PUBLIC SAFETY

4. The Licence Holder will ensure the provision of appropriate fire fighting equipment and ensure that all fire safety appliances and systems are tested every year and re-certified as appropriate.
5. The Licence Holder will hold appropriate certification in respect of gas, electric and emergency lighting. Such certification will be maintained at the premises and will be re-certified annually. The appropriate certification will be available for inspection.

THE PREVENTION OF CRIME & DISORDER

6. The Licence Holder and appropriate staff will regularly monitor noise levels outside the premises to ensure they are not excessive or likely to disturb neighbours.

THE PROTECTION OF CHILDREN FROM HARM

7. The Licence Holder will through a recognised proof of age scheme ensure that anyone who appears to be under 18 and is attempting to buy alcohol or consume alcohol on the premises will be asked to provide accepted proof of age.

APPENDIX F - HUMAN RIGHTS

Article 8

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 1 of the First Protocol

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws, as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Article 10

3. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
4. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

APPENDIX G - PREMISES LICENCE

Licensing Act 2003
Schedule 12 - Part A
Regulation 33, 34



Premises Licence
Ashford Borough Council

PREMISES LICENCE NUMBER: AS/LN/020051159

Premises details:

Postal address of premises, or if none, ordnance survey map reference or description:
The Hare & Hounds Public House, Maidstone Road, Potters Corner, Ashford, Kent, TN25 4NR
Telephone number: 01233 621760

Where the licence is time limited the dates:

Not applicable

Licensable activities authorised by the licence & times the licence authorises the carrying out of licensable activities:

<u>Licensed area:</u>	Whole Premises
<u>Maximum permitted numbers:</u>	Not Specified
<u>Licensable activities:</u>	Alcohol On Sales Alcohol Off Sales
<u>Authorised hours:</u>	Sunday 12:00 - 22:30 Monday 10:00 - 23:00 Tuesday 10:00 - 23:00 Wednesday 10:00 - 23:00 Thursday 10:00 - 23:00 Friday 10:00 - 23:00 Saturday 10:00 - 23:00

Non Standard Timings & Seasonal Variations:

Good Friday 12:00 - 22:30
Christmas Day 12:00 - 15:00 and 19:00 - 22:30

Licensable area:

Whole Premises

Maximum permitted numbers:

100

Licensable activities:

**Live Music
Recorded Music
Facilities for Dancing
Facilities for Making Music**

Authorised hours:

Sunday	None
Monday	None
Tuesday	None
Wednesday	None
Thursday	None
Friday	19:00 - 02:00
Saturday	19:00 - 02:00

Non Standard Timings & Seasonal Variations:

New Years Eve 19:00 - 02:00

The opening hours of the premises

Not Specified

Where the licence authorises supplies of alcohol whether these are on and/ or off supplies

On & Off supplies of alcohol

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Name : The Hare & Hounds (Ashford) Ltd

Address: The Hare & Hounds, Maidstone Road, Potters Corner, Ashford, Kent, TN25 4NR

Tel number: 01233 621760

Email:

Registered number of holder, for example company number, charity number (where applicable)

Not applicable

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Name & Address: Mr Darren Ralph
Address withheld

Tel number: 01233 621760

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Personal licence number: LN/020080945

Licensing authority: Ashford Borough Council

Licence issued by James Hann (Licensing Manager)

Signature:

Issue date: 19th December 2008

Mandatory conditions

Mandatory Conditions

No supply of alcohol may be made under this Premises Licence at a time when there is no designated premises supervisor in respect of the Premises Licence.

No supply of alcohol may be made under this Premises Licence at a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Embedded Conditions

Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

- a. On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 10 a.m. to 11 p.m.
- b. On Sundays, other than Christmas Day or New Year's Eve, 12 noon to 10.30 p.m.
- c. On Good Friday, 12 noon to 10.30 p.m.
- d. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
- e. On New Year's Eve, except on a Sunday, 10 a.m. to 11 p.m.
- f. On New Year's Eve on a Sunday, 12 noon to 10.30 p.m.
- g. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals;
- (d) consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;
- (e) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (f) the sale of alcohol to a trader or club for the purposes of the trade or club;
- (g) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- (h) the taking of alcohol from the premises by a person residing there; or
- (i) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or

the consumption of alcohol by persons so supplied; or
(j) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

- (1) He is the child of the holder of the premises licence.
- (2) He resides in the premises, but is not employed there.
- (3) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
- (4) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

Alcohol shall not be sold or supplied unless it is paid for before or at the time when it is sold or supplied, except alcohol sold or supplied:

- (a) with and for consumption at a meal supplied at the same time, consumed with the meal and paid for together with the meal;
- (b) for consumption by a person residing in the premises or his guest and paid for together with his accommodation;
- (c) to a canteen or mess.

Conditions consistent with the operating Schedule

CONDITIONS CONSISTENT WITH A CONVERTED PUBLIC ENTERTAINMENT LICENCE

GENERAL

1. There shall be affixed and kept up in some conspicuous place on the door or entrance of the premises so licensed an inscription in capital letters, in the following words: "**LICENSED IN PURSUANCE OF ACT OF PARLIAMENT FOR PUBLIC ENTERTAINMENT.**"

The Licensed premises shall not be kept or used for the provision of Regulated Entertainment for Live Music, Recorded Music, Performances of Dance, Facilities for making music, and facilities for Dancing except between the hours of: -

19:00 and 02:00 Friday

19:00 and 02:00 Saturday

19:00 and 02:00 New Years Eve

subject to

- i) Entertainments being permitted to continue without such restrictions as to time in premises licensed for the sale of intoxicating liquor on any day including Sundays where such entertainment is by way of music and singing only which is provided solely by reproduction of recorded sound.
 - i) Public music and dancing being permitted to continue only up to the limit of the permitted hours of the premises (being no later than 2 am or 3 am. in relation to the morning on which British Summer Time begins) for the purpose of sale of intoxicating liquor (including Sundays).
 - ii) Public musical entertainment only, being permitted on the premises on Christmas Day.
1. The Licensee shall comply with any reasonable fire prevention and safety measure that may be required of him by or on behalf of the Licensing Authority or Fire Authority.
 2. All persons responsible for, or employed in or in connection with performances shall take all due precautions for the prevention of any accident and shall abstain from any act whatever which tends to cause fire and is not reasonably necessary for performances.
 3. Authorised Officers of the Licensing Authority, Kent County Council Police Officers on duty and Officers of the Fire Brigade on duty shall be admitted immediately at all reasonable times to all parts of the premises.
 4. The maximum number of persons admitted to the premises used principally for MUSIC & DANCING, should not exceed **100** persons.

5. In premises where seating is permitted for more than 200 persons, all chairs shall be clipped or battened together in units of not less than four, nor more than twelve.
6. The premises shall not be used for a closely seated audience except in accordance with seating plans previously submitted to, and approved by the Licensing Authority in writing.
7. The Licensed Premises shall not be open for the purposes for which this Licence is granted on any occasion when the Licensing Authority shall have signified their desire in writing to the occupier or other person having at the time the care and management of such premises that the same should not be open for reasons of public safety or for the avoidance of nuisance or annoyance to adjoining or adjacent occupiers.

CONTROL AND CONDUCT OF THE PREMISES

8. The Licensee shall take all due precautions for the safety of the audience, the performers and the employees, and except with the consent of the Licensing Authority in writing, shall retain control over all parts of the premises.
9. Any instructions given by the Licensing Authority regarding the safety of the audience and participants shall be put into immediate effect.
10. The number of attendants on duty on the premises to assist persons entering or leaving should be not less than one for every 250, or part of 250 persons present; and
 - a) if the number of persons present on any floor or tier is less than 100, there should be at least one additional attendant on duty on that floor or tier;
 - a) if the number of persons present on any floor or tier exceeds 100 there should be at least two additional attendants on duty on that floor or tier.

PROVIDED THAT where the audience or attendance consists wholly or mainly of persons under 16, the number of attendants on duty to assist persons entering or leaving shall instead be not less than 1 for every 100 or part 100 on the lowest floor plus one attendant for every 50 or part of 50 above the lowest floor.

11. Persons awaiting admission to the premises shall not be allowed to congregate in any position which will cause the obstruction to any persons leaving the building.
12. The Licensee shall, to the best of his ability, maintain and keep good order and decent behaviour in the building during the permitted hours of entertainment and in particular:-
 - a) Drunkenness or other disorderly conduct shall not be permitted, nor shall reputed prostitutes, thieves, or other persons of notoriously bad character be

knowingly allowed to enter or (when discovered to have entered) be allowed to remain in the Licensed Premises.

- a) No public music, singing, dancing, exhibition, recitation or entertainment of a like kind shall be permitted or suffered to take place in the place licensed which is offensive, obscene, immoral, licentious or indecent or likely to produce riot, tumult, or breach of the peace.
- b) No public music, singing, dancing or entertainment of a like kind shall be permitted, or suffered to take place in the place licensed which shall be a nuisance, annoyance or inconvenience to the occupiers of any property adjoining the place licensed or in the neighbourhood thereof.

13. All reasonable steps shall be taken by the Licensee to minimise noise emitted from the Licensed Premises. No amplified music or sound from the premises must be audible within any residential premises between 2300 hours and 0700 hours. (See Note 4).

14. In premises at which an exchange telephone is not installed a notice or notices clearly indicating the position of the nearest telephone by means of which the Fire Brigade may be summoned shall be provided in a position or positions approved by an authorised officer of the Fire Brigade.

15. The Licensee shall be responsible for making arrangements to ensure that information of any outbreak of fire, however slight, shall be at once communicated to the Fire Brigade and to the Police.

16. The Licensee, the person in charge of the premises, and all such attendants shall be properly instructed in the protection of the premises from fire and the use of the fire appliances provided.

FIRE PRECAUTIONS

17. All gangways shall be at least 1070mm (3ft 6ins) in width, and all gangways and exits shall be maintained clear of obstruction during the whole time the premises are used for any public entertainment. Persons shall not be permitted to sit or stand in gangways unless prior approval has been obtained from the Licensing Authority.

18. Exit doors, if fastened during the time persons are on the premises, shall open outwards in the line of exit route and be secured only by a form of fastening which will allow the doors to open immediately upon slight pressure being applied from within. Where panic bars or latches are fitted, the words "PUSH BAR TO OPEN" shall be indicated on the doors 125mm high in bold block lettering of a conspicuous colour above the operating bar.

19. All exit doors shall be clearly indicated by a white on green "running man" pictogram sign of a minimum size of 125mm high displayed at a height of approximately 2.5 metres above floor level over the door. The sign shall be clearly visible from the access route to the door at all times.

20. All exits shall be instantly available for free exit during the whole time the public are on the premises.
21. Emergency lighting, supplied from a source entirely independent of the general lighting, shall be provided to the satisfaction of the Licensing Authority. The degree of lighting available shall be sufficient to allow persons to leave the premises in safety should the general lighting fail. The exit signs should be adequately illuminated by the general lighting and emergency lighting. The emergency lighting must be inspected and tested annually to the current British Standard. Certification shall be available for inspection by the Licensing Authority at all reasonable times.
22. Fire extinguishers shall be provided and be immediately available for use at all times in accordance with the following criteria: One 9 litre extinguisher for every 200 square metres or part thereof subject to a minimum of two extinguishers per floor.
23. An annual Certificate issued by a competent firm of fire equipment engineers to the effect that each extinguisher provided in the premises has been inspected and tested in accordance with the current British Standard and is in good working order, shall be maintained at all times during the currency of this licence and shall be available for inspection by the Licensing Authority at all reasonable times.
24. Only such parts of the premises as have been approved by the Licensing Authority shall be used as retiring rooms, or cloakrooms, and provisions for hanging hats or cloaks shall not be made in corridors, passages, gangways or exitways used by the public.
25. A fire alarm where fitted should be maintained to the current British Standard at all times and all attendants and other staff shall be trained in and familiar with the operation of the system to ensure that the alarm can, if necessary, be operated by them in the event of a fire. Certification shall be available for inspection by the Licensing Authority at all reasonable times.
26. All scenery, drapes and curtains etc. shall be either of inherently flame-resisting material or be treated with a flame retardant solution and maintained in this condition. A Certificate to the effect that treatment has been undertaken shall be available for inspection by the Licensing Authority at all reasonable times.
27. No structural or other alteration of the place licensed or of the means of exit therefrom shall be made during the continuance of this Licence without the sanction of the Licensing Authority. Upon receipt of a notice, in writing, from the Licensing Authority, that the certificate of a competent structural engineer is required in respect of any aspect of the premises, the Licensee shall not permit the premises to be used for any purpose authorised by this Licence until notified in writing by the Licensing Authority.
28. Temporary decorations, curtains or hangings should not be used unless approved by the Licensing Authority in writing. Under no circumstances shall approved temporary decorations be adjacent to or attached to, lighting fittings.

STRUCTURE, FIXTURES AND FITTINGS

29. Application for consent for all decorations, curtains and hangings should be made to the Licensing Authority in writing and should be accompanied by full details, including samples (not less than 1000mm x 500mm) of the material proposed to be used and, in the case of temporary decorations, a statement as to the period for which it is desired to retain the decorations.
30. Where collapsible gates or roll-up shutters are used these shall be locked in the open position whilst the public are present. Revolving doors shall not be used as exit doors.
31. All floors, floor coverings and upholstery in the Licensed Premises shall be maintained in proper repair and in a clean condition.
32. Mats, matting and other floor coverings shall be secured and maintained so that they will not ruck or be in any way a source of danger.
33. The edges of the treads of steps and stairways shall be made conspicuous. All gangways, exitways and the treads of steps and stairways shall be maintained with a non-slip surface.
34. The hangings or curtains over exit doors or across gangways shall be made to part in the centre, to hang so as to be readily drawn aside and not to trail on the floor, and be arranged so as not to conceal notices.
35. All parts of the premises and fittings therein, including the seating, door fastenings and notices, shall be maintained at all times in good order and condition.
36. All electric lampholders within reach of the public shall be kept fitted with lamps or otherwise protected.
37. If gas is installed at the premises, an annual Certificate issued by a CORGI registered gas engineer to the effect that the gas installations in the premises have been examined and tested in accordance with the current edition of the Gas Safety (Installation and Use) Regulations and are in a safe working condition, shall be maintained at all times during the currency of this Licence and shall be available for inspection by the Licensing Authority at all reasonable times.
38. An annual Certificate issued by a qualified electrical engineer to the effect that the electrical installations in the premises have been examined and tested in accordance with the current edition of the Regulations published by the Institution of Electrical Engineers and are in a safe working condition, shall be maintained at all times during the currency of this Licence and shall be available for inspection by the Licensing Authority at all reasonable times.
39. The Licensee shall ensure that socket outlets for use with electrical equipment on or in the vicinity of any stage area, and any circuits associated with spotlights or other stage lighting equipment, shall be protected by one or more Residual

Current Devices (RCDs), as necessary, having an adequate load current rating and a 30mA tripping current.

40. Temporary electrical fittings shall not be used unless the express written consent of the Licensing Authority has first been obtained. They are to be correctly wired and powered via recognised standard electrical outlets. Electrical leads to such fittings are to be run out of reach of the public.
41. Every heating appliance used in the premises, which is so situated as to be within reach of any member of the public, shall be fitted with guards which comply to the standards of construction and fitting required by any regulations for the time being in force applying to heating appliances of a type, which are so designed that they are suitable for use in places of public assembly; and every heating appliance used in the premises shall be situated sufficiently far from woodwork, hangings or other materials, or substances liable to catch fire so that there shall be no likelihood of fire by reason of their proximity to the heating appliance. Combustible hangings are not to be placed over any heating appliance.
42. Every heating appliance situated in a part of the premises to which the public are admitted shall be fixed in position in such a manner as to prevent it being knocked over.
43. Liquid petroleum installations (portable or fixed) of any kind, gas lamps, oil lamps or candle lamps shall not be installed or used within the premises without the prior written approval of the Licensing Authority. Electric lamps and other electrical appliances used within the stage area shall be sited so that they are not liable to come into contact with drapes, scenery or properties.
44. Adequate and separate sanitary conveniences shall be provided for persons of both sexes and shall be separately approached and adequately screened. The conveniences for each sex shall be indicated by a suitable notice. The several lavatories and urinals in the licensed premises shall at all times be kept in good order and repair and be properly and effectively cleansed, ventilated and disinfected and supplied with water and proper and efficient flushing arrangements. During the time the licensed premises are open to the public the lavatories and urinals and the approaches thereto shall be properly and efficiently lighted. The following standards will be deemed to be the minimum level of compliance unless otherwise specified by the Licensing Authority.
 - i) Sanitary accommodation shall be provided for all persons resorting to the Licensed Premises, in accordance with the table set out below.
 - i) Sanitary accommodation shall be provided for entertainers and/or staff separate from the accommodation described at (i) above on the basis of 1 water closet and 1 wash hand basin (W.H.B) per 15 persons or part thereof (due regard being had to the segregation of the sexes).
 - ii) Every wash hand basin shall be provided with hot and cold water, soap and towels (or a suitable alternative method of hand-drying).
 - iii) Every water closet compartment shall be properly lighted and ventilated with a suitable intervening ventilated lobby between the compartment and any other room which is not a corridor or entrance hall.

Public Houses, Clubs and Discotheques

	<u>Males</u>	<u>Females</u>
W.Cs	1 for up to 150	2 for up to 30
part thereof	Plus 1 per 150 or part thereof	plus 1 for every 25 or
Urinals	2 for up to 75	
	Plus 1 per 75 or part thereof	
W.H.Bs	1 per W.C.	1 per 2 W.Cs or part
thereof		
	1 for every 5 urinals or part thereof	

Theatres, Concert Halls and Similar Buildings

	<u>Males</u>	<u>Females</u>
W.Cs	Minimum up to 250	Minimum 2 for up to
40		40
part thereof	plus 1 per 500 or part thereof	3 for up to 70
Urinals	Minimum 2 up to 100 plus	4 for up to 100
	1 for each 80 or part thereof	Plus 1 for every 40 or
W.H.Bs	1 per W.C.	1 plus 1 per 2
W.Cs or part thereof		
	1 per 5 urinals or part thereof	

TEMPORARY STRUCTURES

45. No temporary grandstand or other similar facility shall be provided for spectators unless the express written consent of the Licensing Authority has first been obtained and a certificate has been produced from a qualified structural or other suitably qualified engineer confirming that the proposed structure would be safe for the purposes for which it is intended to be used.

46. The Licensee shall, prior to the use of a temporary grandstand or other similar facility, provide the Licensing Authority with a certificate from a structural or other suitably qualified engineer to the effect that he/she has inspected the grandstand or other similar facility, in situ, and it is safe for the purposes for which it is intended to be used.

MISCELLANEOUS

47. No rubbish or waste paper or other inflammable material shall be stored or allowed to accumulate in or adjacent to any part of the licensed premises. Storage of necessary combustible materials shall be in such positions as may be approved by the Licensing Authority. Rubbish or waste paper receptacles shall

be of incombustible material so as to minimise risk of fire.

48. The licensed premises shall be maintained in a clean condition free of vermin.
49. Any strobe lighting equipment must be arranged to operate at a fixed frequency not exceeding four flashes per second.
50. No laser equipment shall be used without the prior written consent of the Licensing Authority, which must be applied for a minimum of 21 days before the event is due to take place.
51. Pyrotechnics and other special effects (eg fireworks, real flame, bomb tanks, loud bangs, smoke effects, fire arms, nitrogen, carbon dioxide, explosives, etc) shall not be used during any public entertainment or performance without the prior written consent of the Licensing Authority, which must be applied for a minimum of 21 days before the event is due to take place.
52. No exhibitions, demonstration or performance of hypnotism shall be given on any person at any premises licensed for public entertainment without the prior written consent of the Licensing Authority, which must be applied for a minimum of 21 days before the event is due to take place and in accordance with any conditions attached to such consent.
53. No foam parties, striptease, lap dancing or table dancing shall take place at the Licensed premises without the prior written consent of the Licensing Authority, which must be applied for a minimum of 21 days before the event is due to take place.
54. Any storage, preparation or sale of articles of food or drink are to be conducted so as to comply with the requirements of the Food Safety (General Food Hygiene) Regulations 1995.

NOTE 1

The attention of the Licensee is drawn to the provisions of Section 12 of the Children's and Young Persons' Act, 1933: This relates to the responsibility of anyone providing entertainment at a performance attended mainly by children to station and maintain stationed, a sufficient number of adult attendants. This section also makes provision for safeguards against overcrowding and other safety precautions.

NOTE 2

All conditions marked * are only applicable during any entertainment for a closely seated audience

NOTE 3

Additional conditions are applicable for closely seated audiences exceeding 300 persons or may be required for complex premises or to control unusual circumstances

NOTE 4

Inaudibility is defined as follows:

- The $L_{Aeq,5min}$ level measured 1 metre outside a window to a habitable room, with entertainment taking place, shall show no increase when compared with the representative $L_{Aeq,5min}$ level measured from the same position, under the same conditions and during a comparable period with no entertainment taking place; and
- The $L_{eq,5min}$ level in the 63 Hz and 125 Hz octave bands measured 1 metre outside a window to a habitable room, with entertainment taking place, should show no increase when compared with the representative $L_{eq,5min}$ level in the 63 Hz and 125 Hz octave bands measured from the same position, under the same conditions and during a comparable period with no entertainment taking place.

Conditions attached after a hearing by the licensing authority

NONE

Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in Committee Room No. 2 (Bad Münstereifel Room), Civic Centre, Tannery Lane, Ashford on the **9th March 2009**

Present:

Cllr. Goddard (Chairman);
Cllrs. Holland, Kemp

Also Present:

Licensing Manager, Legal Advisor, Licensing Officer, Member Services & Scrutiny Support Officer

PC Griffiths (Licensing Officer), Sergeant Allcott

464 Election of Chairman

Resolved:

That Councillor Goddard be elected as Chairman for this meeting of the Licensing Sub-Committee.

465 Minutes

Resolved:

That the Minutes of the meeting of this Sub-Committee held on the 2nd January 2009 be approved and confirmed as a correct record.

466 Exclusion of the Public

Resolved:

That pursuant to Section 100A(4) of the Local Government Act 1972 as amended the public be excluded from the meeting during the consideration of the following item as it is likely in the view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present there would be disclosure of exempt information hereinafter specified by reference to paragraphs 1 and 2 of Schedule 12A of the Act.

467 Application for a Personal Licence.

As it was 10 o'clock but the Applicant was not present, the Committee agreed to a 15 minute adjournment to give the Applicant further opportunity to attend. After 15 minutes the Licensing Manager returned and told the Committee that he had been

unable to contact the Applicant, a message had been left on his answer-phone, and he had yet to arrive.

The Committee considered whether to postpone the meeting in the absence of the Applicant but decided to determine the application on the evidence before it.

The Chairman opened the meeting and welcomed all those present.

The Licensing Manager then gave a brief summary of his report. He advised Members that there were two options open to them in determining the application; rejection of the application if the Committee considered it necessary for the promotion of the crime prevention objective or to grant the application in any other case (s120(7)(b)).

The Licensing Manager provided all present with a copy of the Applicant's Criminal Record Bureau (CRB) certificate which outlined his convictions.

PC Griffiths (Licensing Officer) presented his report to the Committee. He advised Members that he had been present at a joint interview with the Applicant and the Licensing Manager on 9th February at the Police Station. He did not regard the Applicants offences as accidental or mistakes as he felt that there was a series of dishonesty which took planning and organisation. He concluded by saying that he felt that granting the Personal License would undermine the prevention crime and disorder objective.

PC Griffiths (Licensing Officer) and the Licensing Manager then answered questions from Members of the Sub-Committee.

The Licensing Manager summed up and reiterated the legal options that were open to Members.

The Sub-Committee then made their decision.

The Chairman read out the decision.

Resolved:

That the application for a personal licence be refused.

KL/
M/Minutes