



## Licensing Sub-Committee

Notice of a meeting to be held in Committee Room 1, Civic Centre, Tannery Lane, Ashford, Kent TN23 1PL on Thursday 3<sup>rd</sup> September 2009 at 10.00 am

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The Members of this Committee are:-

Cllrs. Mrs Bell, Goddard, Naughton  
Reserve Cllr Mrs Blanford

### 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 24<sup>th</sup> 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 31<sup>st</sup> July 2009.

### Matters for Decision

5. Ashford (Kent) Rugby Club, Kinney's Field, Kinneys Lane, Kennington, Ashford, Kent, TN24 9RD.  
Application for a 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.

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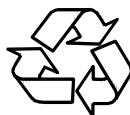
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**Ashford**  
best placed in Britain

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

19<sup>th</sup> August 2009



## Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **31<sup>st</sup> July 2009**

### **Present:**

Cllr. Goddard (Chairman);  
Cllrs. Mrs Blanford, Norris

### **Also Present:**

Cllrs. Cowley, Mrs Heaton, Smith

Licensing Manager, Licensing Officer, Legal Advisor, Environmental Health Manager (Environmental Protection), Environmental Control Officer, Environmental Control Officer, Member Services & Scrutiny Support Officer.

## **164 Election of Chairman**

### **Resolved:**

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

## **165 Minutes**

### **Resolved:**

**That the Minutes of the Meeting of this Sub-Committee held on the 30<sup>th</sup> April 2009 be approved and confirmed as a correct record.**

## **166 The Albion, Albion Place, Willesborough, Ashford, Kent, TN24 0BU – Review of Premises Licence.**

The Chairman opened the meeting and welcomed all those present. Members confirmed that they had read the papers relating to the application. The Chairman explained the procedure to be followed at the meeting.

The Licensing Manager then gave a brief summary of his report. The application was for a review of the premises licence. The premises were situated just off New Town Road/Crowbridge Road in a residential area. The two storey pub was a large public house with a central bar and a function room all situated on one level and garden facilities.

There was evidence that the current licence holders applied for and were granted a Justice's Licence granted by the Magistrates' Court in 2007; however it was not known how long they had been involved with the premises. The Designated Premises Supervisor (DPS) was Mr Rob Dixon, although it appeared that Mr Myall was responsible for running the premises on a day to day basis and was in effect the day to day manager of the premises.

The current premises licence permitted the sale of alcohol on and off the premises Sunday to Thursday 10:00 to 00:00 and Friday and Saturday 10:00 to 01:00. The playing of recorded music Sunday to Thursday 10:00 to 00:30 and Friday and Saturday 10:00 to 01:30. Live music (indoors and outdoors) Friday, Saturday and Sunday 19:00 to 00:00.

An Officer from Ashford Borough Council's Environmental Control Team had submitted an application for a review of the premises licence held by Mr Tom Dixon and Mr Rob Dixon for the premises known as The Albion Public House, Albion Place, Willesborough, Ashford, Kent, TN24 0BU. The Licensing Authority accepted the application for a review as valid. Following the acceptance of the application for a review, the notice which was required to be displayed, was displayed, at the premises of The Albion Public House and at the offices of the Council in Tannery Lane. These notices were checked throughout the consultation period. The Licensing Authority had received no other representations from either a responsible authority or interested parties who lived or worked in the vicinity of the premises.

Complaints of loud music were initially received by the Licensing Authority in September 2006 by one individual living in the vicinity of the premises and as a result of these complaints the licence holders were spoken to by James Hann, Licensing Manager, and Dave Griffiths, Police Licensing Officer, on 26<sup>th</sup> September 2006. A further complaint was received on 1<sup>st</sup> October and a letter was sent to the licence holders reminding them of their responsibilities. No further complaints were received from anyone living in the vicinity of the premises until January 2007. Upon speaking to the complainant the Licensing Authority were informed that the nuisance caused by amplified music had improved since October 2006, although it did cause problems on occasions. Following this complaint a further letter was written to the licence holders reminding them of their responsibilities under the Licensing Act to promote the prevention of public nuisance objective.

In June 2008 a complaint was received regarding loud music emanating from the premises and the premises were visited by a Licensing Officer and an Officer from the Environmental Control Team. Further complaints were received regarding the noise generated from people in the garden of the premises for the weekend of 4<sup>th</sup>/5<sup>th</sup> and 11<sup>th</sup>/12<sup>th</sup> July 2008. Following a telephone conversation with Mr R Dixon on 14<sup>th</sup> July the licence holder agreed to restrict people from using the garden after 23:00. All the complaints received to this point were from a single source, namely a person living in the vicinity of the premises. Upon receipt of complaints in August 2008 the matter was referred to Ashford Borough Council's Environmental Control Team for investigation.

The Environmental Control Officer, Mr Tom Dixon and the licence holder's representative met on 10<sup>th</sup> July to discuss the review and possible steps that could be taken by the licence holder to promote the prevention of public nuisance objective. The Officer proposed a number of conditions that she believed would limit the noise nuisance and these were contained in Appendix E.

Section 52(4) states:

*"The steps are –*

- a) *To modify the conditions of the licence;*

- b) *To exclude the licensable activity from the scope of the licence;*
- c) *To remove the Designated Premises Supervisor;*
- d) *To suspend the licence for a period not exceeding three months;*
- 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 added.”*

Mr Hopkins, the licence holder's representative, addressed the Sub-Committee. He advised Members that The Albion was a well run community pub in South Willesborough. It was surrounded by residential properties and was used by a number of local community groups. The Albion consisted of a bar and trade area to the front, a pool room to the rear and a separate function room. There was a large car park and garden, the smoking area was located to the rear of the pool room in the garden and The Albion was fitted with CCTV throughout.

Rob and Tom Dixon were both present and were the Leaseholders and Premises Licence Holders. Mr Grove, who was also present, was representing Enterprise Inns PLC the freeholders. Mr Rob Dixon was the current DPS but there was a manager Mr Myall who had been in charge of the day to day running of the pub. The brothers held the leases for three pubs in the Borough and were between them the DPS's of all three. The Dixons grew up in the area and so were familiar with the Borough. They had both been in the licensed trade for many years and were experienced licensees, both holding personal licenses. Tom Dixon was the Chairman of the Ashford Pubwatch Scheme for two years and was still a senior committee member.

Since the Dixons took over The Albion there had been no crime or disorder issues raised. There had been no issues with Kent Police and no issues relating to crime, disorder, drugs or underage sales. The review had been sought by the Council's Environmental Protection Team on the grounds of noise nuisance from music inside and outside the pub and noise caused by people using the garden at night. There had been no representations received from any other Responsible Authority.

Letters of support from local residents were tabled. Members were given time to read these.

Mr Hopkins advised that the probable complainant used to drink in The Albion. The Dixons accepted that there had been problems relating to noise and that their assurances to the Environmental Protection Team were not always kept. The incident mentioned regarding a man with a hammer was isolated and not related to the pub. Mr Rob Dixon had believed that matters had been resolved but he had taken his foot off the pedal and left matters to carry on. He also had a major personal issue that distracted him from carrying out his duties. Mr Tom Dixon now oversaw the running of The Albion and there had been no complaints since 12<sup>th</sup> June. There was one incident on the 13<sup>th</sup> June, this should not occur again as there would be no drums on the premises in the future.

A meeting was held with both the Dixons and Environmental Protection Officers which was constructive and a number of conditions had been agreed. These were in relation to Annex E, conditions two and six were agreed with condition seven to be amended to include 'only smokers after 22:00', condition eight to be amended to read 'Recorded music to finish at 23:30. Recorded music at an ambient or

background level until close', condition nine to be amended to read 'Alcohol sales to cease at 00:00 and the premises to be closed to the public by 00:30'.

Mr Hopkins suggested some alternative conditions to numbers one, three, four and five contained at Annex E. Condition one to read: 'Live music to be limited to solo artistes or duos only. No groups, bands and no drum kits/drummers to be allowed on the premises. DJs are to be permitted in the bar area and function room.' Condition three to read: 'No live music to be allowed in the pool room. Recorded music will be permitted using the jukebox only subject to the limitations imposed by condition eight.' Condition four to read: 'Simultaneous functions to be permitted, each to be covered by the management plan to be submitted to the Licensing Authority, to state one supervisor per 100 people per function.' Condition five to read: 'Back doors to the function room to be lobbied with a distance of 3 metres between the doors, each to be fitted with self closing devices, with all other doors and windows to be kept closed when the function room is in use.'

A Member asked for clarification in regards to one supervisor per 100 people, how would this work if there were two functions taking place each with 50 people in attendance? Would there just be one supervisor? Mr Hopkins advised that there would be one supervisor per event in addition to the bar staff. The booking form had been tightened up and by agreement the Dixons were providing the Council with a weekly list of events.

Mr Tom Dixon advised the Sub-Committee that he was the joint licensee for The Albion. He had grown up in South Willesborough and had jointly purchased the Leasehold for The Albion with his brother. Enterprise Inns had approached them and they had agreed to take on the George Hotel in Ashford. The past two years had seen high rises in duty, the smoking ban and the recession which had caused some concerns for the business. His brother had been under a great deal of stress during this time as he was in the process of a custody battle for his children. He had felt sure that the noise complaint would be resolved and admitted that he did not understand what the noise abatement notice meant. He advised that a management plan had been in place for seven weeks and during that time no complaints had been received. The management of The Albion had been negligible and the DPS had stood down.

Mr Hopkins advised that they had agreed to a noise limiter condition which would see all amplified music and the jukebox linked to the limiter. Mr Myall was to be sent on a BIIAB National Certificate for Designated Premises Supervisor course and Mr Tom Dixon was to apply to be the DPS for The Albion as soon as was possible. He also advised that the Dixons were happy to agree to a condition in regards to noise notices being displayed and indicating that only smokers were allowed outside after a specific time. Although there were problems it was hoped that these had been addressed and that the conditions proposed would prevent issues reoccurring.

In response to questions from Members Mr Tom Dixon advised that a monitor was in place at the end of the bar which was linked to the CCTV and enabled the bar staff to monitor areas that they would not be able to see from the bar. They were asking patrons to not take drinks outside and to be quiet when they were in the smoking area, it was taking some time to get used to but controls were in place to ensure that this happened. The number of staff depended on the number of functions taking place. Usually there were three to four bar staff and a supervisor. From 22:00 a member of staff would man the door to ensure that drinks were not being taken

outside. This had proved to be effective as there had been no complaints received within the seven weeks that this had been in place for.

The Environmental Control Officer advised Members that the complaint regarding noise was initially investigated by leaving a locked and tamper proof recording device at the complainant's property. This had confirmed that loud music and noise from customers was clearly audible inside the complainant's property. A site visit was arranged with Mr Rob Dixon in September 2008 to discuss the complaint. Mr Dixon had stated that windows remained closed and he would contact neighbours, requesting that they notify him of any unacceptable noise levels. Four further complaints were received between 6<sup>th</sup> December 2008 and 31<sup>st</sup> January 2009, regarding loud music and customers being noisy when using the garden. After the first complaint, an officer spoke to Mr Myall, the manager, who stated that windows were kept shut and back doors locked after 22:30. Mr Myall was spoken to again in February 2009. He was unaware of any problems. He stated that windows were closed and doors only opened when smokers went outside. An allegation was made of unfair treatment by Officers, due to the fact that the complaints had all arisen from one source. In an attempt to address this concern, it was agreed that where possible an Officer would attend and assess the validity of these complaints.

There had been some quiet periods but this had not lasted. A noise abatement notice had been issued; there had been three occasions where this had been breached. The notice was still in place, although it was felt that the issues previously raised would not reoccur, there was an option to go the Magistrates if it was felt necessary. She advised the Sub-Committee that two of her colleagues were present who would read their statements out and answer any questions that they may have. They were both qualified Officers.

The Environmental Control Officer read her statement of witness to the Sub-Committee, as contained within the agenda papers.

The Environmental Health Manager (Environmental Protection) advised the Sub-Committee that he had been on the periphery of the case and as such had been able to look at the issues from a distance. He had visited The Albion toward the end of May and had witnessed a lot of noise; although he had not entered any of the adjacent properties he had done a circuit of the area on foot. He felt that progress had already been made but the real test would be what would happen in the next few months. He advised that it was the role of the Environmental Protection Team to look at the issues from a professional point of view and to look at them independently.

In response to a question from a Member the Environmental Control Officer advised the Sub-Committee that the Environmental Protection Team were happy with the proposals put forward provided that the Sub-Committee accepted the conditions discussed. She reiterated the Environmental Health Manager's (Environmental Protection) comment in regards to independently assessing the situation.

Mr Tom Dixon advised the Sub-Committee that he found that the Environmental Control Officer conducted herself in a professional manner and was pleased that they had managed to move forward and seemed to be in agreement. Mr Hopkins also praised the Environmental Control Officer for her professional manner.

The Licensing Manager then summed up the nature of the review, the conditions suggested by the licence holder's representative and the Environmental Control

Officer and the issues for the Sub-Committee to consider. He reminded the Sub-Committee that they may modify the conditions of the licence, exclude the licensable activity from the scope of the licence, remove the Designated Premises Supervisor, suspend the licence for a period not exceeding three months or revoke the licence.

The Sub-Committee then retired to make their decision.

On return the Legal Advisor read out the decision.

**Resolved:**

**That the review of the premises licence be granted and the following conditions be applied:**

- (i) Live music to be limited to solo artistes or duos. No groups or bands and no drum kits/drummers will be permitted on the premises. DJs in the bar area and function room to be permitted. Live music to finish at 23:30.**
- (ii) No music (live or pre recorded) outside the building. No speakers to be placed outside to carry music from inside to out.**
- (iii) No live music in the pool room. Recorded music will be permitted including the jukebox and subject to limitations imposed by condition viii.**
- (iv) Simultaneous functions to be permitted as covered by the management plan previously submitted to and approved by the Licensing Authority specifying one supervisor per 0–100 people (for each separate function) in addition to the bar staff.**
- (v) A lobby area to the back door of the function room is to be constructed, details of which will have been previously agreed by the Licensing Authority, but to be at least 3 metres between the outside and internal doors, both doors to be fitted with self closing devices and all other doors and windows to be kept closed when music is being played. The lobby to be constructed within a timescale previously agreed by the Licensing Authority.**
- (vi) Silenced, mechanical extract ventilation to be fitted to the bar area and function room to enable the doors and windows to remain closed but adequate ventilation be provided.**
- (vii) No drinks outside after 22:00, only smokers to be outside after this time.**
- (viii) Recorded music to finish at 23:30.**
- (ix) Alcohol sales to cease at 00:00 to ensure that the premises are closed to the public by 00:30.**
- (x) A noise limiter to be installed in the bar area with all amplified music, including the jukebox to be played through it and to be linked to external doors.**

- (xi) The licence holder will ensure prominent, clear notices shall be displayed at all exits requesting customers to leave the premises and the area quietly and to ask smokers be quiet in the garden area.

The Licensing Manager be delegated authority to amend the wording of the conditions as appropriate.

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**Agenda Item No:**

**Licence Reference**      **WK/200906637**

**Report To:**                      **LICENSING SUB COMMITTEE**

**Date:**                              **3 SEPTEMBER 2009**

**Report Title:**                      **Licensing Act 2003 - Application for a premises licence –**

**Ashford (Kent) Rugby Club, Kinney's Field, Kinney's Lane, Kennington, Ashford, Kent, TN24 9RD.**

**Report Author:**                      Licensing Manager



**Summary:**

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

Application type:      **Application for a premises licence**

Applicant:                      **Ashford (Kent) Rugby Club**

Premises:                      **Ashford (Kent) Rugby Club, Kinney's Field, Kinney's Lane, Kennington, Ashford, Kent, TN24 9RD.**

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

**Key Decision:**                      NO

**Affected Wards:**                      Bybrook

**Recommendations:**                      **The Committee is asked to determine the application and decide whether to grant 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

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**Contacts:**

**Report Title:**           **Licensing Act 2003 - Application for a premises licence  
Ashford (Kent) Rugby Club, Kinney's Field, Kinney's  
Lane, Kennington, Ashford, Kent, TN24 9RD.**

**Purpose of the Report**

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

Application type:       **Application for a premises licence.**

Applicant:               **Ashford (Kent) Rugby Club**

Premises:               **Ashford (Kent) Rugby Club, Kinney's Field, Kinney's  
Lane, Kennington, Ashford, Kent, TN24 9RD.**

**Issue to be Decided**

2. Members are asked to determine whether to grant 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 for a premises licence.
5. See Appendix A for the application for a premises licence, along with a plan. The application has been made in the proper manner.
6. 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. No representations were received from the responsible authorities, although the Environmental Protection Officer & the Senior Environmental Health Officer proposed a number of additional conditions, which the applicant has agreed to adopt. These are:

In respect of all outside events the Licence Holder will ensure that the licensing authority is notified a minimum of six weeks before any licensable event, and will provide the following information:

- A description of the event
- The type of activities
- Hours of operation
- Event capacity
- A site plan showing relevant features in relationship to the neighbourhood
- Details of noise control measures for any events with amplified music
- A list of key members of the organising team and their responsibilities

In addition to the above any outside events likely to attract more than 500 people the licence holder will:

- Ensure that a public safety risk assessment is undertaken and recorded.
- Ensure that a risk management strategy is in place, including a copy of the risk assessment and the site safety rules
- Comply with the reasonable safety requirements of the Licensing Authority and other public authorities.
- The Licence Holder will ensure that all fire extinguishers, alarm systems and emergency lighting are tested and re-certified annually. Such certification will be maintained at the licensed premises and will be available for inspection.
- The Licence Holder will ensure that the electrical installation is tested and re-certified every three years. Such certification will be maintained at the licensed premises and will be available for inspection.
- The Licence Holder will ensure that all gas burning appliances and related pipe work are tested and re-certified annually. Such certification will be maintained at the licensed premises and will be available for inspection.

- The Licence Holder will ensure that any work recommended by the engineer to maintain the above systems in a satisfactory condition will be carried out and documentation provided when asked requested.

### ***Representations from Interested Parties***

11. Nineteen parties have made representations. A summary of these representations is provided in Appendix C. Copies of the letters are contained in Appendix D.
12. All of the representations are parties living in the area.
13. The representations have a number of common themes in terms of the licensing objectives and they can be summarised as follows:
  - The prevention of public nuisance and crime and disorder with reference to the behaviour of customers leaving the premises late at night, and the litter problem that results from events.
  - Loud music coming from the premises during previous outside events and concern about the applicant's request for live & recorded music outside the premises and the effect the potential noise nuisance this may cause.
  - The general noise from outside events and the noise that is already a problem from certain events that are held within the club house, that involve music.
  - The inconsiderate parking by visitors to the club on Kinney's Lane causes a nuisance to interested parties. Members may wish to consider whether the applicant is responsible for customers parking their cars when visiting the premises.
14. 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.
15. 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 20<sup>th</sup> July 2009 and the last date for receipt of relevant representations was therefore 18<sup>th</sup> August 2009.

### ***Relevant premises history***

16. The premises combines changing facilities for sports teams with social facilities and is situated within a sports site, consisting of several football and

rugby pitches. The main hall is used for social functions and has bar and kitchen facilities. A location plan is provided in Appendix B.

17. The premises currently has a premises licence also held by Ashford (Kent) Rugby Club which is likely to be surrendered if this application is granted. The applicant's representative contacted the licensing authority as she became the designated premises supervisor in April 2009 and the Police Licensing Officer and the Council's Licensing Manager met with Mrs Norman at the Rugby Club. Given the scale and significance of the proposed changes it was suggested to the applicant that a new premises licence would be the most appropriate course of action.
18. The current licence (AS/LN/020060010) covers the inside area and an area directly outside the premises. The licence permits the sale of alcohol during the times below with extensions on the first Saturday in June until 02:00 (Club Summer Ball) and on Saturday and Sunday of the 1st weekend in September 11:00 till 01:00 (Club Beer Festival).
19. The current licence also permits live and recorded music during the times below with the same seasonal variations as above.

<b>Alcohol Sales (on and off the premises)</b>		<b>Recorded music (indoors and outdoors)</b>	
Sunday	10:00 - 23:00	Sunday	10:00 - 00:30
Monday	11:00 - 00:00	Monday	10:00 - 23:30
Tuesday	11:00 - 00:00	Tuesday	10:00 - 23:30
Wednesday	11:00 - 00:00	Wednesday	10:00 - 23:30
Thursday	11:00 - 00:00	Thursday	10:00 - 23:30
Friday	10:00 - 00:30	Friday	10:00 - 00:00
Saturday	10:00 - 00:30	Saturday	10:00 - 00:30

20. The rest of the licensable activities on the current premises licence are limited to indoors only and include the exhibition of films, indoor sporting events, other entertainment and the facilities for dancing.
21. The new application proposes to permit the sale of alcohol from 10:00 until 02:00 seven days per week, with an extension for the Annual Awards Ball until 03:00, and maximum of 10 times per year licence to be extended from 02:00 - 10:00 for tour departures.
22. The application also proposes the playing of live and recorded music, the facilities for dancing and making music, the showing of films, boxing and wrestling all inside and outside the premises, seven days a week from 10:00 – 02:00. Annual Awards Ball until 03:00 and New Years Eve until close on New Years Day. The facilities for making music and for dancing, and performance of plays are also requested.
23. The application proposes there will be a maximum of 10 outside events with licensable activities per year and extends the area to be covered by licensable activities.

24. The application proposes that late night refreshment be permitted until the 02:00 with extensions on New Years Eve until 05:00, the Annual Awards Ball until 03:00 and up to 10 times per year licence until 05:00 for tour departures.
25. Our records show that the Council has not received any noise complaints since 2003.

## **Options**

### ***General***

26. 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.

### **Legal options open to members**

27. Members may grant 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**

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

### **Implications Assessment**

29. 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**

30. 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**

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

### **Conclusion**

32. 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
B Byrne, 127 Canterbury Road, Kennington, Ashford, Kent, TN24 9QB.	OBJ - Prevention of public nuisance
Mr Sean Bishop, Direct Building Services, 163 Canterbury Road, Kennington, Ashford, Kent, TN24 9QB.	OBJ - Prevention of public nuisance <b>NOT SIGNED</b>
Miss Susan Wright, 3 Stourfields, Kinney's Lane, Ashford, Kent, TN24 9RD.	OBJ - Prevention of public nuisance Prevention of Crime & Disorder
Mr & Mrs J C Padwick, 177 Canterbury Road, Kennington, Ashford, Kent, TN24 9QH.	OBJ - Prevention of public nuisance
Ms Christine Innes, 1 Stourfields, Kinney's Lane, Kennington, Ashford, Kent, TN24 9RD.	OBJ - Prevention of public nuisance Prevention of Crime & Disorder
Mr T I & Mrs S S Yarborough, 13 Christopher Bushell Way, Ashford, Kent, TN24 9PY.	OBJ - Prevention of public nuisance
Mrs Jackie Kemp, 31 Christopher Bushell Way, Kennington, Ashford, Kent, TN24 9PY.	OBJ - Prevention of public nuisance
Mr S Kemp, 31 Christopher Bushell Way, Kennington, Ashford, Kent, TN24 9PY.	OBJ - Prevention of public nuisance Prevention of Crime & Disorder
Mr & Mrs Paul & Trudy Britton, 161 Canterbury Road, Kennington, Ashford, Kent, TN24 9QB.	OBJ - Prevention of public nuisance
Mr R & Mrs S Martyn, 4 Frank Edinger Close, Kennington, Ashford, Kent, TN24 9RB.	OBJ - Prevention of public nuisance
Mr Philip Booth, 3 Frank Edinger Close, Kennington, Ashford, Kent, TN24 9RB.	OBJ - Prevention of public nuisance
Mr & Mrs B&M Rawlings, 2 Stourfields, Kinney's Lane, Ashford, Kent, TN24 9RD.	OBJ - Prevention of public nuisance
Mr & Mrs LJ Casbolt, Hamilton House, Kinney's Lane, Kennington, Ashford, Kent, TN24 9RD.	OBJ - Prevention of public nuisance
Mr & Mrs JV Williams, 14 Frank Edinger Close, Little Burton Farm, Ashford, Kent, TN24 9RB.	OBJ - Prevention of public nuisance

Mr & Mrs A Simpson, 18 Harry Pay Close, Kennington, Ashford, Kent, TN24 9PX.	OBJ - Prevention of public nuisance Prevention of Crime & Disorder
Mr & Mrs J Feldwich, 10 Frank Edinger Close, Kennington, Ashford, Kent, TN24 9RB.	OBJ - Prevention of public nuisance
Mr P Desai, 15 Frank Edinger Close, Kennington, Ashford, Kent, TN24 9RB.	OBJ - Prevention of public nuisance Prevention of Crime & Disorder
Mr & Mrs Alcock, 13 Frank Edinger Close, Kennington, Ashford, Kent, TN24 9RB.	OBJ - Prevention of public nuisance Prevention of Crime & Disorder
Ashford (Kent) Rugby Club, Mrs P Norman, 33 Jemmett Road, Ashford TN23 4QD	Applicant (for correspondence)

**APPENDIX E**  
**CONDITIONS CONSISTENT WITH THE APPLICANTS OPERATING SCHEDULE**

**Prevention of Crime & Disorder**

1. The Licence Holder will ensure that all those hiring the premises are aware of their responsibility to the various controls necessary to promote the four licensing objectives.
2. The Licence Holder will ensure that the necessary paperwork is completed prior to the event to ensure that the premises is not hired to anyone whose identity is not known.
3. The Licence Holder will ensure that all windows to the main hall will be shielded.
4. The Licence Holder will ensure the alcohol storage area is within a secured cellar and that the bar is fitted with security shutters.
5. The Licence Holder will ensure that the premises is protected by a security system with a call out monitoring system.
6. The Licence Holder will ensure that all key holders have been authorised by at least two members of the committee.
7. The Licence Holder will ensure that outside equipment, such as a marquee, has appropriate overnight security.
8. The Licence Holder will ensure that any money left at the premises when it is not attended by a member of staff will be kept in a safe.
9. The Licence Holder will through the operation of a recognised 'proof of age' scheme ensure that any one who appears to be under 21 and is attempting to buy alcohol or is consuming alcohol on the premises will be asked to provide adequate and accepted proof of age.
10. The Licence Holder will ensure that all bar stewards are trained in the proof of age scheme.
11. The Licence Holder will ensure appropriate supervision for junior club members.
12. The Licence Holder will ensure that any person within the premises who appears to be intoxicated will not be served alcohol and will no longer be permitted to remain on the premises.
13. The licence holder will ensure that during club events a member of staff will be responsible for keeping the outside areas clean.
14. The Licence Holder will employ appropriate drug prevention measures and will adhere to relevant drug related policies as agreed with the Police or other relevant authority.

15. The Licence Holder will ensure that alcohol is obtained from reputable suppliers.

### **The Prevention of Public Safety**

1. The Licence Holder will ensure that the premises is subject to regular inspections to ensure the promotion of the public safety licensing objective.
2. The Licence Holder will ensure the staff are trained in evacuation procedures in case of an emergency.
3. The Licence Holder will ensure the provision of adequate and appropriate first aid equipment and materials on the premises and that there are an adequate number of trained first aiders on duty.
4. The Licence Holder will adhere to all relevant public safety requirements as agreed with the fire service and other relevant authorities.

### **Prevention of Public Nuisance**

1. The Licence Holder will take appropriate steps to prevent public nuisance when holding events.
2. The Licence Holder will ensure adequate signage is in place advising customers to leave the premises quietly and orderly.
3. The Licence Holder will ensure taxi information is available to customers.
4. The Licence Holder will when deemed appropriate use door supervisors. The door supervisors shall be registered with the Security Industry Authority (SIA). The Licence Holder will determine when to use door supervisors having undertaken an appropriate risk assessment. The Licence Holder will liaise with the Police and other relevant authorities as to the need for door supervisors.
5. The Licence Holder will not permit noise from the premises to be audible inside any neighbouring properties.
6. The Designated Premises Supervisor or nominated representative will ensure that the Licensing Authority are provided with their contact number for special events and will available to respond to any complaints promptly.
7. The Licence Holder will ensure that all immediate neighbours are informed of any outside events that will continue after 00:00.
8. There will be a maximum of 10 outside events at the premises per year.

## **The Protection of Children from Harm**

See condition regarding proof of age scheme.

1. The Licence Holder will ensure a minimum ratio of one coach or assistant to every ten children.
2. The Licence Holder will ensure that all coaches, assistants and any staff likely to come into contact with children while working at the premises, will be CRB checked.
3. The Licence Holder will ensure that appropriate policies and procedures are in place to protect children from harm.
4. The Licence Holder will ensure that children do not sit at the bar.
5. The Licence Holder will not allow children onto the premises unless accompanied by a responsible adult or under the supervision of a coach.
6. The Licence Holder will ensure that appropriate proof of age is seen before admittance to any events involving adult entertainment.

## **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.