



Licensing Sub-Committee

Notice of a Meeting to be held in Committee Room 2 (Bad Münstereifel Room), Civic Centre, Tannery Lane, Ashford, Kent TN23 1PL on Monday 5th July 2010 at 10.00 am

The Members of this Committee are:-

Cllrs. Mrs Blanford, Goddard, Woodford
Reserve Cllr Holland

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 Meetings of this Committee held on the 3rd June 2010

Matters for Decision

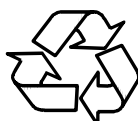
5. Bridgefield Convenience Store, 38 Poppy Mead, Kingsnorth, Ashford, Kent, TN23 3GL 1 – 52
Application for a premises license.
 - (a) Clarification and Determination of Equal Maximum Time to be allocated to each party
 - (b) To note withdrawal of any representations
 - (c) The Hearing of the case.

KL/11th July 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



Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in the Council Chamber, Civic Centre, Tannery Lane, Ashford at 10.00am on the **3rd June 2010**

Present:

Cllr. Goddard (Chairman);

Cllrs. Norris, Woodford

Also Present:

Cllrs. Hodgkinson, Holland

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

Mr Watson – Applicant.

Mr Jenner – Applicants Representative.

Mrs Wright – Interested Party.

34 Election of Chairman

Resolved:

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

35 Minutes

Resolved:

That the Minutes of the Meeting of this Sub-Committee held on the 7th December 2009 be approved and confirmed as a correct record.

36 Great Chart Golf and Leisure, Bridge Farm, Great Chart, Ashford, Kent, TN23 3BZ – Application for a 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 premises licence by Cheeky Events Limited and had been made in the proper manner. The Great Chart Golf and Leisure facility consisted of a golf driving range and archery practice area and a nine hole pitch and putt course surrounding a building housing a golf related shop, a kitchen, toilets and a small bar and catering area. A permanent marquee was constructed to join to the bar area and this was licensed in 2008.

The application did not include the current licensed premises, but was an application by an events company to license an area to the rear of the current buildings for a single event to be held on Saturday 28th August 2010. Further details of those involved in the event and the nature of the event were contained in Appendix D of the report, which was submitted by the applicant when the application was made. Members were advised that the 6 page submission was for guidance only and had no legal bearing.

The application proposed the playing of recorded music outside from 09:00 to midnight on Saturday 28th and on Sunday 29th August 2010. It was not known why the premises licence was being sought for the two days. The sale of alcohol for consumption on the premises, performance of dance, the facilities for making music and dancing were sought for the same dates and times. Late night refreshment was proposed until midnight on both days. The premises were proposed to be open for licensable activities until midnight on both days. The golf practice area would be out of action when the event was planned to take place.

No representations had been received from the Responsible Authorities, although the Senior Environmental Health Officer and the Environmental Protection Manager suggested a number of conditions regarding the prevention of public nuisance and the public safety licensing objectives. These conditions were accepted by the applicant and a copy of the letter agreeing to those additional conditions was provided in Appendix B of the papers.

Two parties had made representations, both of whom lived approximately $\frac{3}{4}$ of a mile from the premises; copies of the letters were contained in Appendix C of the papers. Whilst the distance from the premises was further than was often regarded as being "in the vicinity" of the premises, both parties had experienced noise nuisance from the premises in the past and were therefore considered to be directly affected by the proposed licensable activities.

The representations had common themes in terms of the licensing objectives and they could be summarised as follows:

- Noise generated from amplified music was likely to cause a public nuisance.
- The issue of whether the premises had the correct planning permission was an issue which Members considering this application should discount. The Licensing Act stated that planning was a matter for planning legislation and that only matters relating to the four licensing objectives may be considered when determining an application.
- While the noise generated by the paint-ball activities may be an indication of how noise could be heard at the parties properties, the paint-ball itself was not a licensable activity and so should not be considered as part of the application.

In addition to those matters outlined in the Applicant's operating schedule if Members were minded to grant the application there were additional conditions suggested on page eight of the report.

The Licensing Manager advised the Sub-Committee that Members could grant the licence with no modifications to the conditions, modify the conditions of the licence or reject whole or part of the application.

Mr Watson, the applicant, spoke in support of the application. He advised Members that they had requested the licence for two days as they had been informed by the Golf Club that there would be a wedding at the venue on the same weekend and they wanted to be flexible. He wished to amend the hours requested for the licence from 13:00 hours instead of the original 09:00 hours. The event was to be targeted at 25 to 40 year olds as an alternative to clubbing and would be managed by an experienced team. It was to be a one off event. The field adjacent to the Golf Club would be used for car parking and there would be marshals directing people in and out.

Music would stop at 23:30 at which time coaches and taxis would be available to ferry people into the town centre. The DJ tents would be positioned to project noise into each other and would play only commercial main stream music not drum and bass or heavy music.

Mr Watson had invited those who had made representations to a meeting with himself and the owner of the Golf Club in an effort to discuss the issue that they had over the event, however no-one had turned up. He had also written to the objectors asking them to contact him to discuss their concerns but had received no response. He would provide a package of information to the objectors detailing the hours of operation and the contact details for all senior team members should they experience any issues on the day. He concluded by advising the Sub-Committee that he had offered to pay for the objectors to have a day out and a meal in the evening to alleviate the impact of the event but this had been turned down.

The Chairman asked for clarification as to why the application had been made for two days when the event was to be a one day event. Mr Watson advised that they were unsure what day the event would be held on as they were yet to speak to the wedding party, a meeting had been scheduled for that afternoon. The Licensing Manager advised that the Father of the Bride was in attendance at the Meeting and it may be advisable for the Applicant to discuss the matter with him prior to the Sub-Committee making a decision.

The Sub-Committee adjourned for ten minutes to allow for discussions to take place between the Applicant and the Father of the Bride.

Upon returning to the Council Chamber Mr Watson advised that he had been led to believe that the original date for the event was appropriate however upon discussions with the Father of the Bride he had discovered that this was not the case, as such he wished to amend the application to Sunday 29th August 2010 only from 13:00 to 23:30.

A Member raised concern over the potentially competitive nature of DJ's and queried whether there could be an opportunity for the DJ's to try to out do each other and raise the level of the music? Mr Jenner advised that he was a professional sound engineer and would be managing sound at the event. He assured Members that limiters would be used to ensure that once a limit had been set it could not be adjusted by the DJ's.

The Chairman asked for clarification on the proposed layout of the marquees to be used for the event. Mr Watson advised that there would be two marquees each one housing a different DJ which would be positioned to direct music towards each other, there would be no music outside of the marquees and the bar area would also be located outside of the marquees. Mr Jenner assured Members that there would be

sound technicians on site with portable decibel monitors to ensure that noise levels were not creating a nuisance. Prior to the event they would measure the level of background noise and use that level as a comparison when testing the level of the music. They would be happy to work with the Environmental Protection Officer and the objectors in reaching a level which all parties would find acceptable.

Mrs Wright, an Interested Party, spoke in objection to the application. She advised Members that her objection was twofold; the event was to take place in a highly rural location and she felt that it was not suitable for such an event – there were more suitable locations elsewhere in the Borough. There was a history of noise nuisance from the Golf Club, there had been marquees to the front of the Golf Club previously and they had been able to hear each song that had been played and the DJ speaking, whilst she appreciated that the marquees in question were to be located behind the clubhouse she felt that the distance was negligible. She requested clarification of the number of marquees that would be on site should the event take place. Whilst the applicant had stated that the marquees would face each other she was concerned how this would stop noise travel without using barriers. Paintballing was not a licensable activity, however the event was not to be just about music, there would also be paintballing, zorbing and pitch and putt activities taking place which could add to the noise nuisance that would potentially be created by the event.

Mrs Wright was concerned about traffic using only the A28 to access the site, as many patrons would know the area and could access the site via Hothfield or Pluckley should they wish to do so. Whilst she felt that tally counters were a good idea she felt that it gave the impression that people would be 'coming and going' throughout the event, which was contrary to what the applicant had stated that people would be there for the whole event. She was concerned about the amount of light pollution that may be created by the tower lighting which she had been informed would be used. Whilst only objections to the event had been raised by two households she felt that this could be attributed to the fact that the event was not well advertised. She concluded by saying that she thought the event was at odds with Article 8 of the Human Rights Act.

The Chairman advised the Sub-Committee that whilst the event was to be held at the Golf Club the event management was to be carried out by a different company. So whilst there had been issues of noise nuisance in the past it was an issue with the Golf Club itself not the applicant in this case.

A Member questioned Mrs Wright as to why neither she nor the other objectors had attended the meeting that had been set up by the applicant? Mrs Wright advised that two of the objectors had been unable to attend due to work commitments and the other had been away. She had made a noise complaint to the Council which had been kept anonymous and as such would not have felt comfortable meeting with the Golf Club owner. She also felt that the issue was in the public interest. The Licensing Manager advised that there had been a number of noise complaints made which had resulted in the Licensing Team visiting the premises and discussing the positioning of speakers, volume of music etc with the License Holder. There had been no further issues raised after this had happened, which it appeared was down to a lack of communication and he would investigate the matter further.

The Chairman queried the type of marquee that was to be used for the event. The Licensing Manager advised that the type of marquee did not make any difference as they provided no sound mitigation at all.

Mrs Wright drew attention to paragraph 27 of the Report and advised the Sub-Committee that the tour and admission to the event had been offered to her neighbours along with accommodation for the evening, this however had not been offered to her, although it should be noted that she would not have accepted the offer as she was a voluntary worker at the Smarden Cat Sanctuary. Mr Watson advised that he had proposed to pay for a 'Big Cat Encounter' which included feeding the animals, he wanted to organise the day in a proper manner and had approached the Sanctuary who had been accommodating although the gentleman he had spoken to had since left.

Mrs Wright questioned if the event was aimed at mid 20's to 40's what would the applicant do if 18 year olds purchased tickets? Mr Watson advised that he could not stop anyone over the age of 18 purchasing a ticket to the event. Mr Jenner added that the music had been marketed away from the 18 year old crowd.

It was questioned where the decibel reading would take place? Mr Jenner said that it would take place at the perimeter of the site and if they were granted permission they would be happy to carry out readings in the properties of the objectors. This could take place as often as required and would as a matter of course be carried out throughout the event.

Mr Watson advised that the venues listed on the website were used for corporate events, there would not be large parties on a regular basis, and this was to be a one off event as stated. In respect of the issue surrounding light pollution he was happy to work with the objectors on this, he did not envisage an expanse of lighting however some would need to be available when people were leaving the site.

The Chairman questioned the possibility of noise nuisance and conflict between the limiters on the equipment and the decibel monitors to be used. Mr Jenner advised that they did not wish to upset anybody in the process of the event. Mr Watson added that they wished to proceed in the proper manner and should the nearby residents be willing they would ensure that an engineer visited their properties to check on noise levels throughout the event.

The Licensing Manager then summed up the nature of the application and the issues for the Sub-Committee to consider. He reminded the Sub-Committee that they may grant the license with no modifications to the conditions, modify the conditions of the licence or reject whole or part of the application.

The Sub-Committee then retired to make their decision.

On return the Legal Advisor read out the decision.

Resolved:

That the premises licence be granted for: Sunday 29th August 2010

13:00 to 00:00

The sale of alcohol be permitted:

13:00 to 23:30

Regulated Entertainment:

**The facilities for making music
and for dancing:**

13:00 to 23:30

Late Night Refreshment:

23:00 to 23:30

Subject to the conditions consistent with the operating schedule set out in Appendix E of the Licensing Manager's report, and the following additional conditions:-

- (i) The Licence Holder shall ensure that a site meeting is held with the regulatory bodies a minimum of 8 weeks prior to the event.**
- (ii) The Licence Holder shall ensure that the following documents are submitted to the Local Authority a minimum of 2 weeks before the above meeting:**
 - A full written health and safety risk assessment for the event and associated activities.**
 - An outline of the measure to control the volume of amplified music from the event and the means of responding to residents complaints.**
 - A detailed site plan indicating the position of attractions, facilities etc.**
- (iii) The Licence Holder will inform in writing all neighbours living within 1km of the site boundary of the event, a minimum of 14 days before it takes place.**
- (iv) The Licence Holder and appropriate staff will regularly monitor noise levels outside the premises and specifically near the residences of the parties making representations to ensure that they are not excessive or likely to disturb neighbours.**
- (v) The Licence Holder or representative shall receive and respond to complaints on the day of the event.**
- (vi) The Licence Holder will ensure that the capacity of the event is agreed in advance of the event with the Fire & Rescue Service, through a comprehensive fire risk assessment.**

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

The Legal Advisor informed those present of their right of appeal to the Magistrates' Court.

Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in the Council Chamber, Civic Centre, Tannery Lane, Ashford at 2.00pm on the **3rd June 2010**.

Present:

Cllr. Goddard (Chairman);

Cllrs. Mrs Blanford, Holland.

Also Present:

Cllr. Norris.

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

Mr White, Mr James – Applicant.

Mr Woodhouse, Mrs Knight, Mr Moss, Mrs Moss, Mrs Blakley, Mrs Holliday – Interested Parties.

37 Election of Chairman

Resolved:

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

38 Farriers Arms, The Forstal, Mersham, Ashford, Kent, TN25 6NU – Application for a 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 premises licence and had been made in the proper manner. The application for the premises licence was contained at Appendix A of the Report, along with a plan.

The premises were previously owned by Punch Taverns and in recent years had fallen into a state of disrepair. In 2009 the pub was refurbished and reopened by a company owned by villagers and their friends. The current premises licence permitted the sale of alcohol from 10:00 until 23:30 on Sunday, midnight on Monday to Thursday and until 01:00 on Friday and Saturday. There were also extensions on specific days and the current licence was contained at Appendix E of the Report. The current premises licence also permitted the playing of recorded and live music, the performance of dance and the facilities of music inside the premises to the same hours as the permitted hours for the sale of alcohol. The same activities were permitted outside the premises in the area up to the stream at the rear of the pub, but these were limited to 23:00.

The applicant contacted the licensing authority several months ago and a site visit was undertaken. The applicant had started to make several changes to the premises, specifically the building of a new kitchen area and the redesigning of the existing kitchen into a dining area. There was also a proposal to use outbuildings for

licensable activities and to licence the large green open space to the rear of the property. Due to the extent of the changes and the size of the green space to be licensed the pub's managing director was advised to apply for a new premises licence. The application proposed the sale of alcohol from 10:00 until 23:30 on Sunday, midnight on Monday to Thursday and until 01:00 on Friday and Saturday, with extensions on specific days. The application sought permission to sell alcohol across the area identified in the plan attached to the application.

The application proposed to permit performances of live and recorded music and the performance of dance until 23:30 on Sunday, until midnight on Monday to Thursday and until 01:00 on Friday and Saturday, with extensions on specific days. The facilities for making music and for dancing were also requested. While these were the same hours and activities permitted in the current licence, they were also requested in the outside areas, including the green open space identified in the application. The application also proposed the showing of films indoors until the same hours as those proposed for the sale of alcohol and this was unchanged from the current premises licence. Council records showed that the Council had received no complaints regarding the Farriers Arms since the current licence holders had been responsible for the pub.

No representations had been received from the responsible authorities, although the Environmental Health Manager had suggested a number of conditions regarding the use of the area to the rear of the pub. A copy of the letter agreeing these additional conditions was provided in Appendix B of the Report. Nine parties had made representations, including Mersham and Sevington Parish Council. A summary of these representations was provided in Appendix C of the Report. Copies of the letters were contained in Appendix D of the Report. All of the representations were from parties living in the area.

The representations had a common theme in terms of the licensing objectives and they could be summarised as follows:

- Use of the area to the rear of the pub and the public nuisance that may be caused from people using this area late at night.

As part of the process, the applicant was informed of the objections and a compromise was suggested; namely that:

- (i) The indoor alcohol/music licence to stay as present.
- (ii) The alcohol/music licence for outdoors to be limited to 10:00 until 23:00 Sunday to Saturday with an extension to be permitted until 01:00 on 4 occasions per calendar year.
- (iii) The Licence Holder to notify in writing a specified group of residents of events that were planned to operate in outside areas after 23:00 in advance of the event.

As all representations were not withdrawn and a compromise could not be agreed, the matter was brought before Members for consideration.

In addition to those matters outlined in the Applicants operating schedule if Members were minded to grant the application they may wish to consider the following conditions:

- (i) The Licence Holder and appropriate staff would regularly monitor noise levels outside the premises to ensure that were not excessive or likely to disturb neighbours.

- (ii) The licensee or a nominated representative shall receive and respond to complaints.
- (iii) Events involving licensable activities in the green area beyond the stream be limited to 23:00.
- (iv) The number of events involving licensable activities that were permitted outside the buildings to be limited to a specified number each calendar year.

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

Mr White, the applicant, spoke in support of the application. He advised that they had tried to come to an agreement with the objectors over the application. They wished to hold weddings and large functions at the Farriers Arms but at the same time did not wish to make the public house a nuisance to its neighbours.

The Licensing Manager clarified that the application was to include all of the outside space that was outlined red on the plan to allow for events to take place up until 23:00 with three/four events a year permitted until 01:00.

Mr James, the applicant, advised that they had four/five bookings for the field already, one of which was for the local fete and would finish by 18:00. They hoped to host a beer festival in July over a two day period which would finish at 23:00 on each day. Whilst they wished to hold events at the public house and on the field it would not be on a weekly basis.

Mr Moss, an Interested Party, advised that he had experienced first hand the effect that the proposed licence would have, on the 23rd May a band had been performing at the Farriers Arms which both his wife and himself had been able to hear not only in their garden but also inside of their house. They had in fact left their house to get away from the noise. He felt that music in an outside environment was un-monitorable. Mrs Moss, an Interested Party, added that they were supportive of the public house however they were concerned that the number of events held at the premises could increase over and above what the applicant had stated.

Mr White advised that they had hosted one wedding party at the venue and this had been held in the Forge. The music that the previous speaker had alluded to had been aimed towards the public house and had resulted in reverberation of the noise into the field.

A Member raised concern over the provision of parking should an event take place that would attract a large number of patrons. Mr Moss advised the Sub-Committee that on the 23rd May when the band had been playing at the public house he, along with his neighbours, had had difficulties accessing his driveway.

Photographs supplied by Mr Moss were handed round to all parties to demonstrate the issue surrounding parking.

Mr White advised that they had permission to use a field owned by one of the shareholders of the Farriers Arms for parking should it be required. Mrs Moss advised that by using the field for parking, vehicles would be able to park close to her property; the village hall had a maximum of 20 parking spaces. Mr James advised that the entrance/exit to the field was dangerous and so wished to limit the occasions when the field would be in use.

Members asked for clarification on why such a large area was being applied for under the licence. Would this be used as an opportunity to hold large functions and

how would the field be maintained? Mr James advised that they had applied for the licence to cover the whole field as it had been an easy opportunity, they would not use the whole of the area. They intended to use the area for the beer festival and weddings and would not allow it to become churned up; they would ensure that it was maintained.

Mr Woodhouse, an Interested Party, spoke in objection to the application. He advised that he was representing Mersham and Sevington Parish Council who had been asked by local residents to support their objection. The Parish Council felt that 23:00 was the latest that the licence should be permitted for, they were also concerned that should the Sub-Committee permit the Farriers Arms to have additional events that would finish later than 23:00 there would not be a way of ensuring that this was adhered to. He asked the Sub-Committee to restrict the licence to 23:00 inside and outside with the proviso that should the applicant wish to hold events in the field that would finish later than 23:00 they could apply for a special licence.

Mrs Knight, an Interested Party, spoke in objection to the application. She advised Members that she moved to the area in August of last year with three young children who were already experiencing issues of noise nuisance connected to the Mill which was next to their property. She was concerned about the effect that the potential noise nuisance would have on her children should the application be permitted.

Mrs Blakley, an Interested Party, spoke in objection to the application. She advised the Sub-Committee that she lived opposite the field and although she loved the aspect she was fully aware of how hazardous accessing the field was. In her opinion it was an accident waiting to happen. Whilst she supported the idea of holding the village fete and fireworks evening on the field she did not wish to see large scale music events taking place there. She had been able to hear the band playing at the Farriers Arms on 23rd May and felt that should such an event take place again and continue until 23:00 or 01:00 it would be unbearable. She concluded by saying that she did want the public house to survive and wanted to be supportive but was concerned that events would take place every weekend.

Mrs Holliday, an Interested Party, spoke in objection to the application. She was concerned about the noise impact and also the issue of the field being on a floodplain.

Mr James advised that there were 22 houses within 20yards of the Farriers Arms with eight/nine representations being made which he considered amounted to 27% of the neighbouring properties objecting to the proposal. Should there be a need to use the field for car parking then they would ensure that someone would be present to control the traffic.

Mr White added that he lived above the Farriers Arms and had a young family so was conscious of noise levels. He was aware that he could apply for a Temporary Event Notice (TEN) should the Committee decide not to grant the licence for the field.

The Licensing Manager advised those present of the process for apply for TEN's and the restrictions imposed by a TEN on numbers of people able to be present at any one time and that there was a limit for the number of TEN's that can be applied for in one year. He added that TEN's were an inflexible way of licensing as they could not be applied for on short notice which was why many premises had flexible licences.

When question how the limit of people would affect functions should the premises have to apply for a TEN, Mr White advised that the limit of 499 would not be

sufficient. Mr Moss added that the interior of the Farriers Arms was small and so such large numbers of people would need to use the outside space and would cause more of an issue in respect of the logistics and safety relating to parking provision. Mr White advised that they would expect to see approximately 3000 people attend the beer festival, although he felt that many patrons would not drive due to the nature of the event. They would ensure that the area was coned off to prevent cars blocking driveways and would use the field for car parking. Mrs Moss raised an issue over the security of using the field as a car park as her property had been burgled with the field being used as the access to the property.

The Licensing Manager then summed up the nature of the application and the issues for the Sub-Committee to consider. He reminded the Sub-Committee that they may grant the licence with no modifications to the conditions, modify the conditions of the licence or reject whole or part of the application.

The Sub-Committee then retired to make their decision.

On return the Legal Advisor read out the decision.

Resolved:

That the premises licence be granted and the sale of alcohol be permitted from:

Sunday:	10:00 to 23:30
Monday to Thursday:	10:00 to 00:00
Friday and Saturday:	10:00 to 01:00

Opening hours until 30 minutes after the end of the permitted hours for the sale of alcohol.

Regulated entertainment:

Showing of films, performances of live and recorded music and of anything of a similar description (all inside the premises) and facilities for making music and dancing:

Sunday:	10:00 to 23:30
Monday to Thursday:	10:00 to 00:00
Friday and Saturday:	10:00 to 01:00

Late Night Refreshment:

Sunday:	23:00 to 23:30
Monday to Thursday:	23:00 to 00:00
Friday and Saturday:	23:00 to 01:00

Subject to the conditions consistent with the operating schedule set out in Appendix F of the Licensing Manager's report, and the following additional conditions:-

- (i) The Licence Holder and appropriate staff will regularly monitor noise levels outside the premises to ensure that they are not excessive or likely to disturb neighbours.**
- (ii) The Licence Holder or a nominated representative shall receive and respond to complaints.**
- (iii) The Licence Holder will ensure that a written health and safety risk assessment is completed for each event held on the land at the rear of the premises. The assessment will be available to the regulatory bodies on request.**
- (iv) The Licence Holder will ensure that all large scale public entertainment events (exceeding 500 people) held on the land at the rear of the premises will be notified to the regulatory bodies a minimum of 8 weeks before the event.**
- (v) The Licence Holder will, if requested by the regulatory bodies, arrange a site meeting to discuss the safety/security of large scale events and will pay due attention to any concerns expressed by the regulatory bodies over the conduct of the event.**
- (vi) The Licence Holder will ensure all external doors and windows are kept closed, other than for access and egress, in all rooms in the Forge when events involving amplified music or speech are taking place.**
- (vii) No more than ten outdoor events in the garden and field, as identified on the application plan, to be held with a finishing time of 23:00, with four of the ten events to finish at 00:00.**
- (viii) The Farriers Arms amplification system is to be used at all times when music, recorded or otherwise, is being played at the premises.**
- (ix) The Licence Holder will ensure that all events to be held on the land at the rear of the premises will be notified to the 22 dwellings surrounding the premises a minimum of 14 days before the event.**

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

The Legal Advisor informed those present of their right of appeal to the Magistrates' Court and the Right to Review a Premises Licence. She advised the Applicant that the Sub-Committee had concerns regarding the parking provision. The field that the Applicant intended to use for parking could require permission for a change of use and she advised that they contact the Local Authority regarding this.

Agenda Item No:

Licence Reference **WK/201004110**

Report To: **LICENSING SUB COMMITTEE**

Date: **10 JUNE 2010**

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

**Bridgefield Convenience Store, 38 Poppy Mead,
Kingsnorth, Ashford, Kent, TN23 3GL**

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: **Mr Rajakulendran Rangunathan**

Premises: **Bridgefield Convenience Store
38 Poppy Mead, Kingsnorth, Ashford,
Kent, TN23 3GL**

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

Key Decision: NO

Affected Wards: Park Farm

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

jane.woodford@ashford.gov.uk – Tel: 01233 330578

Contacts:

**Report Title: Licensing Act 2003 - Application for a premises licence
Bridgefield Convenience Store, 38 Poppy Mead,
Kingsnorth, Ashford, Kent, TN23 3GL**

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: **Mr Rajakulendran Rangunathan**

Premises: **Bridgefield Convenience Store, 38 Poppy Mead,
Kingsnorth, Ashford, Kent, TN23 3GL**

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. See Appendix A for the application for a premises licence, along with a plan of the internal layout of the premises.
5. Representations have been received hence the determination coming before Members.

Additional steps

6. 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 application is granted.
7. The conditions put forward by the Licensing Manager as taken from section P of the application form are as given within Appendix F. Note it is the responsibility of the Licensing Authority to prepare conditions that are “consistent” with the operating schedule (s.18).

8. 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

9. No representations have been received from responsible authorities.

Representations from Interested Parties

10. 9 parties have made representations. A summary of these representations is provided in Appendix B. Copies of the letters are contained in Appendix C.
11. All of the representations are parties living in the area.
12. The representations have a number of common themes in terms of the licensing objectives and they can be summarised as follows:
 - The concern about the potential for antisocial behaviour within the vicinity of the premises.
 - The fact that it is currently a wholly residential area and that residents feel it is an inappropriate place for a business. Members will have to determine whether this is a relevant factor when considering the application under the Licensing Act 2003.
13. 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.
14. 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 7th May 2010 however the notice was not correctly displayed at the premises until 11th May 2010. Therefore the last date for receipt of relevant representations was 9th June 2010.

Relevant premises history

15. The premises is the bottom floor of an attached town house and is situated on the new Bridgefield development at Park Farm. A location plan is provided in Appendix D and a photograph of the front of the premises in Appendix E.
16. The application proposes to permit off sales of alcohol from 08:00 – 19:00, seven days a week with the premises being open from 06:00 – 19:00 seven days a week. There is no premises licence granted for this application at the present time.
17. The application states that the premises will be a general convenience shop with residential accommodation above.

Options

General

18. 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

19. 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:

All Four Licensing Objectives

- a) The Licence Holder shall ensure that the premises has in place an internal CCTV system. The system will be maintained in working order and footage must be retained for a period of time to the satisfaction of the Police.

Prevention of Crime & Disorder

- b) The Licence Holder will ensure that CCTV equipment is installed and working on the premises.
- c) The Licence Holder will ensure that the CCTV system incorporates a recording facility and any recording will be retained and stored in a suitable and secure manner for a minimum of 31 days.
- d) The Licence Holder will ensure that all staff undertake the necessary training in legislation relevant to the licensing laws and the social impact of the sale of alcohol.

Prevention of Public Nuisance

- e) Prominent, clear notices shall be displayed at all exits requesting customers to respect the needs of local residents and leave the premises and the area quietly.
- f) The Licence Holder will take all reasonable steps to ensure that adequate waste receptacles are available for use by customers immediately outside the premises, subject to the Council's approval
- g) The Licence Holder shall ensure that staff monitor the immediate vicinity of the premises and ensure that any litter is collected and disposed of appropriately.
- h) The licensee or a nominated representative shall receive and respond to complaints.

Consultation

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

Implications Assessment

21. 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

22. 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 G.

Handling

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

Conclusion

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

Contact:	Licensing Officer
Email:	jane.woodford@ashford.gov.uk

APPENDIX B – SUMMARY OF REPRESENTATIONS FROM INTERESTED PARTIES

Name & Address	Representation Details
Mr R Rangunathan Flat over 38 Poppy Mead, Kingsnorth, Ashford, Kent, TN23 3GL.	Applicant
Ms T Pruce 46 Bluebell Road, Kingsnorth, Ashford, Kent, TN23 3GJ.	Object Prevention of Crime & Disorder Public Safety Prevention of Public Nuisance Protection of Children from Harm
Mr David Bowles 32 Bluebell Road, Ashford, Kent, TN23 3GJ.	Object Prevention of Crime & Disorder Public Safety Prevention of Public Nuisance Protection of Children from Harm
Mr Arthur Letterboer 26 Bluebell Road, Ashford, Kent, TN23 3GJ.	Object Prevention of Crime & Disorder Public Safety Prevention of Public Nuisance Protection of Children from Harm
Mrs Valerie Letterboer 26 Bluebell Road, Ashford, Kent, TN23 3GJ.	Object Prevention of Crime & Disorder Public Safety Prevention of Public Nuisance Protection of Children from Harm
Mrs W Hughes 30 Bluebell Road, Kingsnorth, Ashford, Kent, TN23 3GJ.	Object Prevention of Crime & Disorder Public Safety Prevention of Public Nuisance Protection of Children from Harm
Ms Paula Davey 47 Bluebell Road, Kingsnorth, Ashford, Kent, TN23 3GJ.	Object Prevention of Crime & Disorder Public Safety Prevention of Public Nuisance Protection of Children from Harm
Ms Trudi Halstead 73 Bluebell Road, Ashford, Kent, TN23 3GJ.	Object Prevention of Crime & Disorder Public Safety Prevention of Public Nuisance Protection of Children from Harm
Mrs Karen Levett 43 Bluebell Road, Kingsnorth, Ashford, Kent, TN23 3GJ.	Object Prevention of Crime & Disorder Prevention of Public Nuisance
Mr Peter Jacobs & Miss Carly Breeze, 34 Bluebell Road, Kingsnorth, Ashford, Kent, TN23 3GJ.	Object Prevention of Crime & Disorder Public Safety Prevention of Public Nuisance Protection of Children from Harm

APPENDIX F

CONDITIONS CONSISTENT WITH THE APPLICANTS OPERATING SCHEDULE

General - All four Licensing Objectives

- a) The Licence Holder will ensure that CCTV equipment is installed and working on the premises and will be in operation throughout trading hours and that access to the system will be provided to the police and local authority officers at their request.
- b) The Licence Holder will ensure that the premises is fitted with an internal security alarm.
- c) The Licence Holder will ensure that no money will be left in the till overnight.

The Prevention of Crime & Disorder

- d) The Licence Holder will ensure that any person within the premises who appears to be intoxicated will not be served alcohol.
- e) The Licence Holder will not allow more than 2 children on the premises at any one time.
- f) The Licence holder will ensure that all spirits are kept behind the sales counter and out of the reach of the public.

Public Safety

- g) The Licence Holder will ensure that emergency lighting, with battery backup is installed within the premises.
- h) The Licence Holder will ensure the provision of appropriate fire fighting equipment.

Prevention of Public Nuisance

- i) The Licence Holder will ensure that no deliveries are made to the premises after 18:00

The Protection of Children from Harm

- j) The Licence Holder will ensure that a record of all refusals for the sale of alcohol is maintained.
- k) The Licence Holder will through the operation of the recognised 'proof of age' scheme, Challenge 21 ensure that any one who appears to be under 21 and is attempting to buy alcohol on the premises will be asked to provide adequate and accepted proof of age.

APPENDIX G - 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.