



Licensing Sub-Committee

Notice of a Meeting to be held in Committee Room 1, Civic Centre, Tannery Lane, Ashford, Kent TN23 1PL on Wednesday 1st October 2014 at 2.00pm*

*Please note start time

The Members of this Sub-Committee are:-

Cllrs. Chilton, Davey, Shorter
Reserve Cllr. Hodgkinson

Agenda

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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:-** To declare any interests which fall under the following categories, as explained on the attached document:
 - a) Disclosable Pecuniary Interests (DPI)
 - b) Other Significant Interests (OSI)
 - c) Voluntary Announcements of Other Interests

See Agenda Item 3 for further details
4. **Minutes** – To approve the Minutes of the Meetings of this Sub-Committee held on the 15th February 2013 and 3rd April 2014 1 – 11

Matters for Decision

5. Spearpoint Pavilion, The Ridge, Kennington, Ashford, TN24 1ET – Application for a Premises Licence. 13 – 44
 - (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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Please refer to the Guidance Notes on the procedure to be followed at this meeting as attached to this Agenda

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

Declarations of Interest (see also “Advice to Members” below)

- (a) **Disclosable Pecuniary Interests (DPI)** under the Localism Act 2011, relating to items on this agenda. The nature as well as the existence of any such interest must be declared, and the agenda item(s) to which it relates must be stated.

A Member who declares a DPI in relation to any item will need to leave the meeting for that item (unless a relevant Dispensation has been granted).

- (b) **Other Significant Interests (OSI)** under the Kent Code of Conduct as adopted by the Council on 19 July 2012, relating to items on this agenda. The nature as well as the existence of any such interest must be declared, and the agenda item(s) to which it relates must be stated.

A Member who declares an OSI in relation to any item will need to leave the meeting before the debate and vote on that item (unless a relevant Dispensation has been granted). However, prior to leaving, the Member may address the Committee in the same way that a member of the public may do so.

- (c) **Voluntary Announcements of Other Interests** not required to be disclosed under (a) and (b), i.e. announcements made for transparency reasons alone, such as:

- Membership of outside bodies that have made representations on agenda items, or
- Where a Member knows a person involved, but does not have a close association with that person, or
- Where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position.

[Note: an effect on the financial position of a Member, relative, close associate, employer, etc; OR an application made by a Member, relative, close associate, employer, etc, would both probably constitute either an OSI or in some cases a DPI].

Advice to Members on Declarations of Interest:

- (a) Government Guidance on DPI is available in DCLG’s Guide for Councillors, at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/240134/Openness_and_transparency_on_personal_interests.pdf plus the link sent out to Members at part of the Weekly Update email on the 3rd May 2013.
- (b) The Kent Code of Conduct was adopted by the Full Council on 19 July 2012, with revisions adopted on 17.10.13, and a copy can be found in the Constitution at <http://www.ashford.gov.uk/part-5---codes-and-protocols>
- (c) If any Councillor has any doubt about the existence or nature of any DPI or OSI which he/she may have in any item on this agenda, he/she should seek advice from the Head of Legal and Democratic Services and Monitoring Officer or from other Solicitors in Legal and Democratic Services as early as possible, and in advance of the Meeting.

Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in Committee Room 2 (Bad Münstereifel Room), Civic Centre, Tannery Lane, Ashford on the **15th February 2013**.

Present:

Cllr. Shorter (Chairman);

Cllrs. Chilton, Feacey.

In accordance with Procedure Rule 1.2 (iii) Councillor Shorter attended as a Substitute Member for Councillor Marriott.

Apology:

Cllr. Marriott.

Also Present:

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

Applicant, Police Representative.

321 Election of Chairman

Resolved:

That Councillor Shorter be elected as Chairman for this Meeting of the Licensing Sub-Committee.

322 Minutes

Resolved:

That the Minutes of the Meeting of this Committee held on the 7th December 2012 be approved and confirmed as a correct record.

323 Exclusion of the Public

Resolved:

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

324 Application for a Personal 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 Officer gave a brief summary of his report. He went through the case and explained that the Police had objected to the granting of the personal licence.

The Applicant then put his case to the Committee.

The Police Representative then put his case to the Committee.

The Licensing Officer, the Applicant and the Police Representative answered questions from Members.

The Applicant, Police Representative and Licensing Officer then left the meeting and the Committee retired to make its decision.

The Applicant, Police Representative and the Licensing Officer then returned to be advised of the decision.

Resolved:

That taking into account the evidence presented by both parties and in accordance with statutory guidance and the Council's Policy as no exceptional or compelling reason to grant the licence had been proven the Licensing Sub-Committee therefore refused the application for a personal licence.

The Legal Advisor advised the Applicant that he had a right to appeal to the Magistrates Court within 21 days.

Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **3rd April 2014**.

Present:

Cllr. Shorter (Chairman);

Cllrs. Feacey, Marriott.

Apology:

Cllr. Davey.

Also Present:

Cllr. Apps.

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

PC Julian Postlethwaite – Applicant's Representative.

Mr T Bartlett – Licence Holder's Representative.

Mr C Rai – Designated Premises Supervisor and Licence Holder.

385 Election of Chairman

Resolved:

That Councillor Shorter be elected as Chairman for this Meeting of the Licensing Sub-Committee.

386 Minutes

Resolved:

That the Minutes of the Meeting of this Sub-Committee held on the 28th February 2013 be approved and confirmed as a correct record.

387 The Old Prince of Wales, New Street, Ashford, Kent, TN24 8UU – Application for the Review of the 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 for the review of the premises licence for The Old Prince of Wales had been received from Chief Inspector Fox on behalf of the Chief Officer of Police. Where an application for a review had been accepted by the Licensing Authority the Act required that a notice be displayed on the premises, in a position where it can be seen from the outside, stating that an application to review the premises licence had been made. A notice must also be displayed at the Council's offices and on its website. The notices had been displayed correctly and a copy was appended to the agenda papers at Appendix B.

Representations were only valid where they related to one of the four licensing objectives, namely:

- a) the prevention of crime and disorder
- b) public safety
- c) the prevention of public nuisance
- d) protection of children from harm

An application for the review of these premises had been received from Kent Police under the objectives of the prevention of crime and disorder and the protection of children from harm. This application was also circulated to other responsible authorities to give them the opportunity to make representations.

Before determining the review application, the Council licensing authority must hold a hearing to consider it and any relevant representations received. No other representations have been received from any other responsible authorities.

All applications for the review of a premises licence required the applicant to state the grounds for the review. In summary the application for a review stated the following problems:

- Public order disturbances both inside and outside the premises
- The sale of alcohol to persons under 18 years of age
- Controlled drug use within the premises
- The lack of age verification policies
- The ineffectiveness of the premises management

The application for a review of the premises licence was based upon events on the following dates;

- 18th January 2014
- 29th December 2013
- 21st December 2013
- 1st November 2013
- 25th September 2013
- 15th June 2013
- 27th May 2013

- 5th May 2013

Additional information in the form of witness statements from Police Officers (PC), Special Constables (SC) and Police Community Support Officers (PCSO) had been provided and were appended to the agenda papers.

PC Julian Postlethwaite advised the Sub-Committee that Chief Inspector Mitchell Fox had submitted the application for the review; however he was the Police Licensing Officer for the Area and would be representing the Chief Inspector and Kent Police. He apologised for an error in the application, the review was being called based on two of the licensing objectives not three. The Old Prince of Wales was a well-established pub that did not currently serve hot meals and was located close to the Town Centre ring road. Inside the premises was an area for bands and DJs with a purpose built walled area to the rear of the premises. Benches were located at the front of the premises. He would give the Sub-Committee an overview of the events that had led to the review being applied for:

- 18th January 2014 – The manager, Mr Danny Sherpa, contacted the Police regarding a fight outside the premises. Ashford Monitoring Centre (AMC) continued to observe the incident, which had started at the rear of the walled garden. Investigations were still continuing into this incident so limited detailed information could be provided at the meeting. During the course of the incident a male had been seen exiting the pub and approached a man involved in the incident and had offered him an 'ASP' telescopic baton. This offer was refused however the man was then allowed back into the premises after speaking to an off duty member of staff. He was concerned that this member of staff didn't raise the issue with an on duty staff member.
- 29th December 2013 – The Police were notified of a fight outside the premises by AMC. It was reported that a group of 8-10 people were involved with punches being thrown and a woman knocked over. Four patrols attended and dispersed those involved. PC Julian Postlethwaite advised that the pub was a member of the pubwatch scheme, however the pub did not report the incident.
- 21st December 2013 – The Police were contacted by AMC regarding a fight at the front of the premises. Six patrols attended and four people were arrested. Four of the statements submitted related to this incident. A 17 year old youth was seen on the premises and was involved in the fight. This youth had been seen at the premises previously. Bar staff watched the fight take place but did not make any attempt to intervene.
- 23rd October 2013 – A female member of the public contacted the Police to report an assault. The victim had been punched in the face and a cigarette stubbed out on her cheek. CCTV from inside premises had been requested however it had been broken on this occasion. The offender was not identified.

- 25th September 2013 – AMC contacted the Police to report a fight in the premises. Five patrols attended. One of the males involved in the fight continued to fight with Officers and was sprayed with PAVA incapacitant spray, he was highly intoxicated.
- 16th August 2013 – Operation Sentry, a drug swabbing and licensing operation took place. Two males were arrested for the possession of Class A drugs and dealer bags were also found in the cistern of the toilet. During another Operation Sentry held later in the year (1st November) one of the males arrested in August was found to be on the premises and was arrested for possession of Class A drugs. On 1st November PC Treadwell saw a male customer at the bar who was clearly intoxicated and advised the manager that he should be removed, this advice was provided twice more before the manager acted. At a pubwatch meeting on 7th November 2013 PC Julian Postlethwaite asked the manager of The Old Prince of Wales if he would be nominating the male arrested during Operation Sentry for exclusion. He was advised that he would not.
- 15th June 2013 – A PSCO attended following the report of an assault. Two drunk females were located at the premises.
- 27th May 2013 – AMC contacted Police to report a fight at the front of the premises. A patrol attended and the groups dispersed. No arrests were made.
- 5th May 2013 – AMC contacted Police to report a fight at the front of the premises. Officers attended and found two youths under the age of 18 drinking alcohol at the front of the premises. CCTV footage suggested that the fight that had taken place was violent.

PC Julian Postlethwaite advised that he had available several recordings taken from CCTV footage of the incidences described to the Sub-Committee. The Sub-Committee expressed a wish to view one of these recordings.

388 Exclusion of the Public

Resolved:

That pursuant to Section 100A(4) of the Local Government Act 1972, as amended, the public be excluded from the meeting during consideration of the following item, namely 'Application for the Review of the Premises Licence' as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present there would be disclosure of exempt information hereinafter specified by reference to paragraphs 2 and 7 of Schedule 12A of the Act.

The Sub-Committee viewed a recording taken from CCTV footage of an incident that had taken place outside of the premises.

389 Resumption of Meeting in Public

Resolved:

That the Meeting be resumed in public.

After a five minute recess to allow people to return to the Council Chamber, the Meeting was resumed in public.

In response to questions from the Sub-Committee PC Julian Postlethwaite advised that Ashford Monitoring Centre controlled the CCTV in the Town Centre and contacted the Police upon the discovery of an incident. CCTV footage was recorded and then formed part of the Police incident log.

Mr Bartlett advised the Sub-Committee that the purpose of a review was to bring the pub back on track with the licensing objectives; it was not a means of punishment. Since the application, a minor variation had been submitted which, in his view, went a substantial way to meeting the concerns raised by the Police. The only outstanding areas of concern were the closing hours and the tables and chairs to the front of the premises. He advised that Mr Rai was prepared to remove the picnic style benches and replace them with bistro style table and chairs that could be removed and out of use by 22:00.

The Chairman distributed a hand-out that had been prepared by the Council's Licensing Team, which detailed the licencing hours and conditions for the premises at the time the application for the review had been submitted, the subsequent variation and the proposal put forward by the Police as part of the application. All parties confirmed that they were in agreement for this to be circulated.

Mr Bartlett further advised that he felt the proposals put forward by the Police were punitive and reflected their inability to police the area. He felt that the current policing levels were not good. The proposed reduction of the closing time to 23:00 highlighted policing difficulties rather than assisting with the promotion of the licensing objectives. He drew Members' attention to the proposal put forward by the Police for door supervisors to be in place at a ratio of 1:35, the industry accepted ratio was of 1:100, with 1:70 for more stringent premises. The ratio of 1:35 was too high, a ratio of 1:70 would be acceptable. His client agreed with the conditions relating to the training of staff and CCTV. The premises had recently started to provide a menu for hot meals, as such a condition relating to the admittance of a person under the age of 18 provided that they were accompanied by someone over the age of 18 whilst partaking in a table meal would be accepted. The Licence Holder hoped to turn the pub into a family focused venue.

Three additional members of staff were to be put on personal licence courses as soon as possible, with staff attending a drugs awareness course scheduled for June 2014. The proposed bistro style tables could be stacked and stored by 22:00 with a notice advising patrons to use the walled terrace area after this time. He referred to the CCTV footage shown earlier at the meeting and advised that, in his opinion, it looked far worse than it actually was. Any conditions that were attached to a licence

had to be proportionate, should a closing time of 23:00 be imposed it was likely that this would lead to the closure of the premises.

In response to questions from the Sub-Committee Mr Rai advised that in his role as Designated Premises Supervisor he tried to get staff to follow procedures and abide by the legal requirements of the licence as well as dealing with customers and stock. Both managers were booked on personal licence courses. He was new to the industry and felt that he had been through a learning phase and would take on board all that he had learnt. He was going to implement the Challenge 25 scheme and would ensure that all his staff were trained appropriately.

Mr Bartlett advised that all policies were being written down and recorded. Previously there had been a fear of using the pubwatch radio as there was a perception that it would reflect badly on the pub, this had now been rectified and staff were encouraged to use the radio where necessary.

In response to questions from the Sub-Committee PC Julian Postlethwaite advised of the ratio of door supervisors to patrons for a number of establishments in the Town Centre. He then provided clarification of the timings of the incidences that he had referred to earlier in the meeting.

PC Julian Postlethwaite advised that the review had not been requested lightly. He understood what had been said in respect of the possible impact on the Town Centre however felt it was important that the public could enjoy the area in safety. The walled area to the rear of the premises had been constructed for use by smokers and those wishing to drink outside and patrons should have been directed to use it from the beginning. The conditions proposed were appropriate. He had a good relationship with the management of the pub and wanted to ensure that it remained in the Town Centre.

The Sub-Committee then retired to make their decision.

On return the Legal Advisor read out the decision.

Resolved:

That given the evidence presented to them and the views presented at the hearing, the Sub-Committee decided to amend the licence conditions as follows;

The hours of the licence be amended as follows:

Licensable hours	
Sale of Alcohol Monday to Thursday Friday & Saturday	07:00 – 00:00 07:00 – 01:00

Live Music	10:00 – 23:00
Films	07:00 – 23:00
Indoor Sporting Events	10:00 – 23:00
Other entertainment	10:00 – 23:00
Late Night Refreshment Monday to Thursday Friday & Saturday	23:00 – 00:00 23:00 – 01:00
Opening Hours Monday to Thursday Friday & Saturday	07:00 – 01:00 07:00 – 02:00

The Sub-Committee also decided that it had no confidence in Mr Rai as the Designated Premises Supervisor and that based on the extensive history of problems, the lack of proper procedures, the failure to manage the premises in accordance with the current licence or in accordance with the law and his answers to questions put to him about the management of the premises at the hearing , he is removed from being the Designated Premises Supervisor.

And the following additional conditions be applied to the licence:

- 1 At least one personal licence holder to be on duty at the premises from 17:00 daily.
- 2 At least one member of SIA approved door staff per 50 customers on duty from 21:00 on Friday and Saturday nights. The same condition to apply for any organised, ticketed or advertised event on any other night.
- 3 The Licence Holder will ensure that an incident book is maintained at the premises and that all staff will be trained in its use. The book will be bound and clearly marked with the following information:
 - a. Time & date of incident
 - b. Full description of incident
 - c. Details of description of any person involved in the incident

- d. Any action taken by staff
 - e. Name of staff member making the entry
- 4 A CCTV system shall be designed, installed and maintained in proper working order, to the satisfaction of the Licensing authority and in consultation with Kent police. Such system shall be:
 - a. Operated by properly trained staff.
 - b. Be in operation at all times that the premises are being used for a licensable activity
 - c. Ensure coverage of all entrances and exits to the licensed premises, internally and externally.
 - d. Ensure coverage of such other areas as may be required by the licensing authority and Kent police.
 - e. Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained (on tape or otherwise) for a period of one month, and shall be supplied to the licensing authority or a police officer on request.
- 5 Persons under 18 may be permitted on the premises up to 21:00 if accompanied by an adult, and only if they are having a table meal.
- 6 The Licence Holder will ensure that all staff are trained on age and alcohol awareness and that all staff training records are regularly audited by the Designated Premises Supervisor, seen to be implemented and will be available to all of the responsible authorities at their request.
- 7 The paved area at the front of the premises, bordered by the café, and railings around the 1st World war tank is not to be used by customers for the consumption of alcohol after 21:00 hours. All tables and chairs are to be removed from this area at the same time and secured safely. Staff at the premises will direct customers, to the purpose built walled terraced smoking area at the rear of the pub.
- 8 The licence holder must ensure that any individual who appears to be under 25 years of age is required to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

The reasons for imposing the new conditions and for removing the Designated Premises Supervisor are to ensure public safety, to prevent crime and disorder, to prevent public nuisance and to protect children from harm

The Licensing Manager be given delegated authority to make minor amendments to the wording of the conditions as necessary.

The Chairman advised that the time taken to reach a decision by the Sub-Committee reflected the evidence before them and the discussion that had taken place. The Sub-Committee had not been impressed that the Police and the services that they provided had been blamed for the problems at the premises. The management of the premises needed to take on board their roles and responsibilities and fulfil them. He urged him to take on board the comments made at the Meeting and that the running of the premises needed to improve.

Agenda Item No:

Licence Reference **WK/201406961**

Report To: **LICENSING SUB COMMITTEE**

Date: **8 SEPTEMBER 2014**

Report Title: **Licensing Act 2003 - Application for a premises licence for *Spearpoint Pavilion, The Ridge, Kennington, Ashford TN24 1ET***

Report Author: Licensing Support Officer



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 Rugby 2013 Ltd**

Premises: **Spearpoint Pavilion, The Ridge, Kennington, Ashford TN24 1ET**

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

Key Decision: NO

Affected Wards: Little Burton (Ashford)

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
Spearpoint Pavilion, The Ridge, Kennington, Ashford
TN24 1ET**

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 Rugby 2013 Ltd**

Premises: **Spearpoint Pavilion, The Ridge, Kennington, Ashford
TN24 1ET**

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 Support Officer as taken from section P of the application form are as given within Appendix C. 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 Other Parties

10. Four parties have made a representation. Copies of the letters are contained in Appendix B.
11. The representations can be summarised as follows:
 - The concern about the sale of alcohol in an area used by children
 - The concern about the potential for excessive noise and anti social behaviour
12. 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
13. 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 8 August 2014 and the last date for receipt of relevant representations was 5 September 2014.

Relevant premises history

14. The premises is a sports pavilion built in the 1960's and is of a timber construction with a flat roof. It is situated on a large council owned area of amenity land at The Ridge in Kennington. The pavilion currently houses several changing rooms, a small bar area, kitchen, office, store rooms and a lounge area. Please refer to the plan in appendix A.
15. The application is to permit the club to use the facilities for licensable activities and in addition would allow the premises to be hired to the local community. The applicant has stated that a member of the rugby club would be on site at any time the pavilion is hired to the local community.
16. The Ashford Barbarians Rugby Club was formed in January 2013 and they have been using the premises since August 2013.
17. During the period 13 August 2013 to 31 May 2014, twenty temporary event notices were applied for and used by the rugby club, at the premises. They permitted the sale of alcohol and entertainment, from 12 midday to 12 midnight on a Saturday, for up to 60 people. No complaints have been made,

to licensing, at any point during the time the club have been using the premises.

18. The application proposes to permit:

All licensable activities are to be indoors only

Sale of alcohol (on sales only), recorded music	Monday to Saturday 11:00 – 23:00	Sunday 11:00 – 22:00
	Extension on Christmas Eve until 00:00 and on New Years Eve until 01:00	
Plays, films, performance of dance, indoor sporting events	Monday to Saturday 11:00 – 23:00	Sunday 11:00 – 22:00
Live Music	Friday and Saturday 12:00 – 22:00	Monday and Sunday 12:00 – 18:00
	Christmas eve 12:00 – 22:00 New Years Eve 12:00 – 00:00	
Opening Hours	Monday to Saturday 08:00 – 23:00	Sunday 08:00 – 22:00
	Extension on Christmas Eve until 00:00 and on New Years Eve until 01:00	

19. The proposed designated premises supervisor is Stephen Biggs who is an experienced licence holder and DPS. He previously managed the Utopia Bar which is a busy town centre premises.

General

20. 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 other 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 appropriateness to impose conditions due to the representations raised. It may then only impose such conditions as are appropriate 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 will afford an opportunity for responsible authorities and other 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 enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be 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. It is important to remember that 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 of other parties living and working in the area of a licensed premises. Public nuisance may also arise as a result of artificial light, dust, odour and insects or where its effect is prejudicial to health.

- 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 appropriate 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.
- The Guidance states “the conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out 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 which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.”
- It is perfectly possible that in certain cases, because the test is one of appropriateness, 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

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

22. In addition to those matters outlined in the application's operating schedule, age verification is a mandatory condition of all licences with the sale of alcohol. If members are minded to grant the application they may wish to also consider the following conditions:

Prevention of Public Nuisance

- The Licence Holder and appropriate staff will regularly monitor noise levels outside the premises to ensure that are not excessive or likely to disturb neighbours.
- The Licence Holder or a nominated representative will receive and respond to complaints.

Consultation

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

Implications Assessment

24. 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

25. 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 D.

Handling

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

Conclusion

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

APPENDIX C
CONDITIONS CONSISTENT WITH THE APPLICANTS OPERATING SCHEDULE

General - All four Licensing Objectives

The premises will participate in the Pubwatch Scheme.

The Prevention of Crime & Disorder

The licence holder will ensure that whenever the premises is hired out to the local community a member of the club will always be present.

An intruder alarm and CCTV will be installed in the licensed area.

Public Safety

All drinks will be served in polycarbonate glasses.

Prevention of Public Nuisance

All waste is to be stored inside the building and removed weekly.

The Protection of Children from Harm

None specified

APPENDIX D - 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.