



## Licensing Sub-Committee

Notice of a Meeting to be held in the Council Chamber, Civic Centre, Tannery Lane,  
Ashford, Kent TN23 1PL on Friday 21 August 2015 at 10.00am\*

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### \*Please note start time

The Members of this Sub-Committee are:-

Cllrs. Feacey, Shorter, Sims  
Reserve Cllr. Britcher

## Agenda

- |   | <b>Page<br/>Nos.</b> |
|---|----------------------|
| 1. <b>Election of Chairman</b>  |                      |
| 2. <b>Apologies/Substitutes</b> – To receive Notification of Substitutes in accordance with Procedure Rule 1.2(iii) and Appendix 4  |                      |
| 3. <b>Declarations of Interest:-</b> To declare any interests which fall under the following categories, as explained on the attached document:<br><br>a) Disclosable Pecuniary Interests (DPI)<br>b) Other Significant Interests (OSI)<br>c) Voluntary Announcements of Other Interests<br><br>See Agenda Item 3 for further details | i                    |
| 4. <b>Minutes</b> – To approve the Minutes of the Meeting of this Sub-Committee held on the 13 <sup>th</sup> November 2014  | 1 – 6                |

## Matters for Decision

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| 5. The Auction House, 7 New Street, Ashford, TN24 8TN –<br>Application for a Summary Review of the Premises Licence under the provisions of Section 53A to the Licensing Act 2003. | 7 – 11 |
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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 Morland 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/5962/2193362.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5962/2193362.pdf)
- (b) The Kent Code of Conduct was adopted by the Full Council on 19 July 2012, 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 No.1 (Fougères Room), Civic Centre, Tannery Lane, Ashford on the **13<sup>th</sup> November 2014**.

### **Present:**

Cllr. Galpin (Chairman);

Cllrs. Chilton, Mrs Hutchinson.

### **Also Present:**

Cllr. Shorter.

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

Mr Sen – Applicant, Mr Ozbuluter – Applicant's Representative.

## **223 Election of Chairman**

### **Resolved:**

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

## **224 Declarations of Interest**

Councillor Chilton made a 'Voluntary Announcement' as he had used the Applicant's café in Stanhope.

## **225 Minutes**

### **Resolved:**

**That the Minutes of the Meeting of this Sub-Committee held on the 1<sup>st</sup> October 2014 be approved and confirmed as a correct record.**

## **226 The Crusader, Brookfield Road, Ashford, Kent, TN23 4EZ – Application for the variation 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 Support Officer then gave a brief summary of her report. She said the application to be considered by the Sub-Committee was for the variation of the Premises Licence for the Crusader and she confirmed that the application had been made in a correct manner. Mr Sen had held the licence since 25<sup>th</sup> September 2014 and there had been no complaints since then. The Applicant had applied to vary the premises licence to add the off sale of alcohol to match the existing hours for the on sale of alcohol at the following times:

Sunday to Wednesday 10.00 – 23.30  
Thursday to Saturday 10.00 – 01.30  
Bank Holidays, Christmas Day and New Year's Day 10.00 – 01.00

Off sales would be made from the premises or with food orders upon delivery. Payment for alcohol delivery would be made online or over the phone. In addition, the applicant had applied for late night refreshment at the following times:

Sunday to Wednesday 23.00 – 23.30  
Thursday to Saturday 23.00 – 01.30

One representation had been received from one of the Ward Members concerning the potential for increased noise and disturbance within the vicinity of the premises. It was also stated within the representation that issues had previously been raised directly with the Ward Members about people gathering in the area, which the Licensing Team were not aware of. The Licensing Team had had three previous complaints regarding loud music, but all were relating to the previous licence holder.

Mr Ozbuluter, who worked with the Applicant, spoke in support of the application. He explained that they had considered the licencing objectives and felt that their business worked in line with the objectives. The main thrust of this explanation was that any alcohol purchased was with food and for consumption at home, having been delivered to the home address. As such, there was no likelihood of any nuisance or issues of public safety to local residents as the alcohol was delivered to a residential address for quiet enjoyment at home. It was further explained that the price point was that much more than nearby supermarkets, and as such it was proffered that those who were likely to cause nuisance in the area would not be getting their alcohol from this premises. However, they had not noticed any gathering of people as indicated in the representation made. The Applicant had vast experience of running licenced premises and had never encountered any issues in the past in respect of his many premises licences. It was further explained that there would be comprehensive training in place for staff in respect of sale of alcohol.

In response to a question, the Licensing Support Officer confirmed that no representations or correspondence had been received from the other Ward Member.

Mr Ozbuluter clarified that food payments could be made in cash on delivery but any payment for alcohol to be delivered with the food order would have to be paid for either online or over the phone. He also confirmed that where drivers were in doubt about the age of the person receiving the alcohol, they would refuse to leave the order. He said that references were taken before employing new drivers, and their performance was monitored.

The Licensing Support Officer summed up the nature of the application and the issues for the Sub-Committee to consider. She reminded the Sub-Committee that they may grant the licence with no modifications, 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 variation of the Premises Licence be granted as applied for.**

The decision notice and formal wording read out by the Legal Advisor is appended to these minutes.

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**LICENSING SUB-COMMITTEE**  
**Thursday 13 November 2014**

**APPLICATION TO VARY A PREMISES LICENCE**  
**THE CRUSADER, BROOKFIELD ROAD, ASHFORD, KENT.**

**LICENSING SUB-COMMITTEE DECISION AND REASONINGS**

**NAME AND  
ADDRESS OF  
PREMISES:**

The Crusader  
Brookfield Road,  
Ashford,  
Kent,  
TN23 4EZ

**APPLICANT:**

Ufuk Sen

**REASON FOR  
HEARING:**

To determine application for a variation to a premises licence further to receipt of one valid representation received from an interested party.

**DELIBERATION:**

The Licensing Sub-Committee was advised at the meeting that there was only one representation on the application for variation, that this was to be found on page 31, the author of the representation was not attending the meeting. Further, the committee were advised that there had been no complaints received from any party, e.g. Environmental Services, police, fire service, or any residents in respect of the current running of the premises.

The applicant explained that they had considered the licencing objectives and they felt that their business worked in line with the objectives. The main thrust of this explanation was that any alcohol purchased was with food and for consumption at home, having been delivered to the home address. As such, there was no likelihood of any nuisance or issues of public safety to local residents as the alcohol was delivered to a residential address for quiet enjoyment at home. Further it was explained that the price point was that much more than nearby supermarkets, as such it was proffered that those who were likely to cause nuisance in the area would not be getting their alcohol from this Premises. That said, they had not noticed any gathering of people as indicated in the representation made.

Further, the applicant ran through his vast experience of running licenced premises and how he had never

encountered any issues in the past in respect of his many premises licences. It was further explained that there would be comprehensive training in place for his staff in respect of the sale of alcohol.

The Sub-Committee considered in detail the representation contained within the committee bundle at page 31, which was not expanded upon at the Sub-Committee hearing.

In light of the above, the Sub-Committee considered the following relevant licensing objectives.

### **1. Prevention of Crime and Disorder**

No representations had been made regarding this licensing objective.

### **2. Public Safety**

No representations had been made regarding this licensing objective.

### **3. The Prevention of Public Nuisance**

The Sub-Committee had regard to the representation made regarding this objective in respect of groups of people gathering to drink beer in the vicinity. It was noted that there was no evidence to suggest that any of the residents were suffering the effects of this nuisance from the premises or patrons. Rather these were anticipated concerns. The Sub-Committee considered that the measures in place would alleviate these concerns.

In respect of anti-social behaviour, again it was noted that there was no evidence to suggest that residents were suffering the effects of anti-social behaviour from the premises or patrons currently but that these were anticipated concerns. The Sub-Committee considered that the measures in place would alleviate these concerns. The Sub-Committee thought that the commitment to work closely with the police as detailed in their operating schedule very encouraging.

### **4. Prevention of Harm to Children**

The Sub-Committee had regard to the representation made regarding this objective and the concerns expressed by Cllr Chris Clark. Again it was noted that there was no evidence to suggest that this is a current problem but that these were anticipated concerns. The Sub-Committee considered that the measures in place would alleviate these concerns. The

Sub-Committee thought that the condition as detailed in their operating schedule whereby they premises would have steps in place to ensure that alcohol is handed over to persons at the delivery address, only when effective age verification had taken place and that if there was any doubt then the alcohol would not be left and the police would be informed was very responsible.

**DECISION MADE:**

Application as applied for.

**Additional notes made by the Sub-Committee at the meeting -**

- This licence, like any other licence, is subject to review at the instigation of any Responsible Authority or Interested Person should there be any concerns regarding the operation of, and/or, breaches of the licence.
- Other Persons and Responsible Authorities were reminded that they may apply for a review of this licence “after a reasonable interval” pursuant to section 51 of the Licensing Act 2003.
- Entitlements to appeal for parties aggrieved by the decisions of the Licensing Authority are set out in Schedule 5 to the 2003 Act.
- In the case of a Premises Licence, an appeal has to be commenced by the giving of a notice of appeal by the appellant to the justices’ chief executive for the magistrates’ court within a period of 21 days beginning on the day on which the appellant was notified by the licensing authority of the decision to be appealed against.



**Agenda Item No:** 5  
**Licence Reference** LN/201300967  
**Report To:** LICENSING SUB COMMITTEE  
**Date:** 21<sup>ST</sup> AUGUST 2015  
**Report Title:** **Section 53A Licensing Act 2003 – Summary review of a premises licence for The Auction House, 7 New Street, Ashford Kent, TN24**  
**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 is made for a summary review for a premises licence under the provisions of section 53A to the Licensing Act 2003**

Applicant: **Chief Officer of Police, Ashford**

Premises: **The Auction House, 7 New Street, Ashford Kent, TN24**

To advise elected members of a valid 'Application for a Summary Review of a Premises Licence' under Section 53A of the Licensing Act 2003 has been received.

**Key Decision:** NO

**Affected Wards:** Victoria

**Recommendations:** **The licensing Sub-Committee is asked to consider whether it is necessary to take interim steps prior to the hearing of the expedited review.**

**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:** There are no specific financial implications arising from this application. However additional costs may be incurred should the matter go to appeal.

**Other Material Implications:**

**HUMAN RIGHTS:** In considering this application the Sub Committee will balance the competing Human Rights of the various parties including the right to respect for private and family life, the protection of property and the right to a fair hearing.

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

**Exemption Clauses:** Not applicable

**Background Papers:** None

**Contacts:** Jack.godley@ashford.gov.uk – Tel: 01233 330722

**Report Title: Application is made for a summary review for a premises licence under the provisions of section 53A to the Licensing Act 2003, namely; The Auction House, 7 New Street, Ashford Kent, TN24**

### **Purpose of the Report**

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

Application type: **Application for a summary review of a premises licence**

Applicant: **Chief Officer of Police, Ashford**

Premises: **The Auction House, 7 New Street, Ashford Kent, TN24**

### **Issue to be Decided**

2. Members are asked to consider whether it is necessary to take interim steps prior to the hearing of the expedited review.

### **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 an expedited review of a premises licence, which allows a quick process for attaching interim conditions to a licence and a fast track licence review when the police consider that the premises concerned is associated with serious crime or serious disorder (or both).
5. The application has been correctly submitted by the chief officer of police for the area and accompanied by a certificate from a senior police officer, stating that in their opinion the premises are associated with serious crime or serious disorder (or both).

6. The application and certificate required can be found at Appendix A and B respectively.
7. The licensing authority on receipt of the application and the certificate, must within 48 hours of the time of its receipt consider whether it is necessary to take interim steps pending determination of the review of the premises licence in any event must undertake a review within 28 days after the day of receipt of the application.
8. The licensing authority may want to consult the police about the steps that it thinks are appropriate, pending the determination of the review, to address the immediate problems with the premises, in particular the likelihood of serious crime and/or serious disorder. The licensing authority may consider the interim steps without the holder of the premises licence having been given an opportunity to make representations. This does not, of course, mean that the licensing authority *cannot* afford such an opportunity if it thinks it appropriate and feasible to do so in all the circumstances.
9. There is no requirement for a formal hearing in order to take the interim steps. This means that the relevant sub committee members can communicate by telephone or other remote means in order to reach a decision. A written record should always be produced as soon as possible after a decision is reached.
10. The review must take place even if the chief officer asks to withdraw his application or representations.
11. A copy of the current premises licence can be found at Appendix C

### ***Decision Options***

12. The options open to the licensing authority at the interim steps stage include:
  - modification of the conditions of the premises licence;
  - the exclusion of the sale of alcohol by retail from the scope of the licence;
  - removal of the designated premises supervisor from the licence; and
  - suspension of the licence.
13. If the licensing authority decides to take steps at the interim stage the decision takes effect immediately, or as soon after it as the licensing authority directs and the licensing authority must give immediate notice of its decision and its reasons for doing so to the holder of the premises licence and the chief officer of police who made the application.

## Consultation

14. All relevant parties have followed the consultation procedures required under the Licensing Act 2003 and the application has been advertised accordingly.

## Implications Assessment

15. 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

16. 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

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

## Conclusion

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

Contact: Email:	Licensing Manager Jack.Godley@ashford.gov.uk
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