



## **LICENSING SUB COMMITTEE**

Notice of a Meeting, to be held in the Council Chamber - Ashford Borough Council on Thursday, 24th January, 2019 at 10.00 am.

---

The Members of the Licensing Sub Committee are:-

Councillors Feacey, Krause, Pickering  
Councillor White (Reserve)

### **Agenda**

	<b>Page Nos.</b>
<b>1. Election of Chairman</b>	
<b>2. Apologies/Substitutes</b>	
To receive Notification of Substitutes in accordance with Procedure Rule 1.2(iii)	
<b>3. Declarations of Interest</b>	1 - 2
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	
<b>4. Minutes</b>	3 - 14
To approve the Minutes of the Meeting of this Sub-Committee held on 15 June 2018.	
<b>5. Guidance Notes for Hearings</b>	15 - 18
<b>6. The Cod Father, 15 High Street, Ashford, Kent, TN24 8TH - Review of the Premises Licence</b>	19 - 62
(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	

---

KM  
9 Jan 19

Queries concerning this agenda? Please contact Kirsty Morland  
kirsty.morland@ashford.gov.uk 01233 330499  
Agendas, Reports and Minutes are available on: [www.ashford.gov.uk/committees](http://www.ashford.gov.uk/committees)

# Agenda Item 3

## Agenda Item 3

### 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 Corporate Director (Law and Governance) and Monitoring Officer or from other Solicitors in Legal and Democratic Services as early as possible, and in advance of the Meeting.

This page is intentionally left blank

## Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in Committee Room 1, Civic Centre, Tannery Lane, Ashford on the **15<sup>th</sup> June 2018**.

### Present:

Cllr. Bradford (Chairman);

Cllrs. Feacey, Krause;

Cllr. Pickering (Reserve).

### Also Present:

Licensing Officer, Environmental Protection & Licensing Team Leader, Legal Advisor, Member Services and Ombudsman Complaints Officer.

Mr Thomas (Applicant's Representative)  
Ms Lonel (Applicant and DPS)

Ms Seed (Neighbour Representative)  
Ms Gooch (Tenterden Town Council)

## 48 Election of Chairman

### Resolved:

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

## 49 Minutes

### Resolved:

**That the Minutes of the Meeting of this Sub-Committee held on the 30<sup>th</sup> April 2018 be approved and confirmed as a correct record.**

## 50 Premises License for Bottega Montelbano, 3 Highbury Lane, Tenterden, Kent TN30 6LE

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 summarised the application as set out in the report and confirmed that it had been made correctly. He referred to the previous planning application for a change of use to sell food and drink and to the decision of the

planning department that prior approval was not required. Therefore, the premises already had permission to open as a café but not sell alcohol. It was clarified later in the meeting that the planning permission only related to the inside of the building and the applicant would have to apply for planning permission for an outside seating area. The Licensing Officer outlined that there were two representations from local residents and one from Tenterden Town Council on the following grounds: public nuisance, noise, public safety including impact of vehicles and deliveries, and protection of children from harm.

The Committee then heard from Mr Thomas on behalf of the applicant. He explained that the applicant operated as a café/deli/ice-cream parlour located behind the main restaurant on Tenterden High Street. The applicant had developed their proposals to serve alcohol as well following discussions with customers. The proposal was simply to be able to offer alcoholic drinks, such as a glass of wine or prosecco with light food or afternoon tea. The applicant anticipated no more than 30 customers at any one time, and there were no proposals for late night entertainment, serving alcohol late or live music. In response to the concerns of local residents the applicant had put forward amended conditions which were:

1. Alcohol to be consumed on the premises would only be served to persons seated at tables within the premises and the forecourt area;
2. Alcohol to be consumed beyond the forecourt area would only be sold in sealed containers;
3. Food would be available throughout the trading period.

In addition, Mr Thomas confirmed that the applicant would amend the hours of serving alcohol on site to start at 10am. However, off-site sales would remain as previously, starting at 8am.

In response to concerns about nuisance, Mr Thomas said there would be no external music speakers, although there would be internal incidental music, as was allowed. The DPS would manage the disposal and collection of refuse, deliveries from vehicles and all other operations in line with the procedures at the main Montelbano restaurant. He referred to the artist's sketches showing the proposals for the external and internal space. He emphasised that there would be a small supplemental offering of alcohol to go with meals and the premises would operate only as an Italian café.

In response to questions from Councillors, Ms Lonel confirmed that she would be part of the age verification scheme called Challenge 25 and would accept that as a condition, and that she, as DPS, was present during her working hours.

The Committee asked about the reference in the planning application to the statement that the premises were unsuitable to operate as a licenced premises. In response Ms Lonel said it was a misunderstanding with their planning consultant. It was not intended to operate as a full restaurant and the wording was how their planning consultant had represented their views. However, since then she confirmed that they had spoken to their customers and they had asked if the

business could sell alcohol with food. She confirmed again that this would be a very small part of the business. Mr Thomas said that the planning application for A3 use (food and drink) was made up front and was very clear.

The Committee then heard from Ms Jane Seed, who represented the residents of Highbury Lane. She referred to her written representations, but firstly addressed what Mr Thomas had said, as follows:

1. The premises was an ice-cream parlour wanting to sell alcohol, and this was a conflict relating to the safety of children.
2. The applicant said they had planning permission to serve alcohol on the forecourt, however they did not (this point was confirmed as set out above).
3. The condition regarding sealed containers for off-site sales did not prevent anyone from unsealing and drinking.
4. Regarding the artist's impression, the reality was completely different. The screeding at the front of the premises was not level, and was therefore dangerous. The interior of the building did not have any sound-proofing. When people drink they become louder, and therefore there would be a noise nuisance.
5. Serving alcohol would cause an extreme noise nuisance, particularly as the houses of Highbury Lane were only a very few metres away from the premises. The forecourt was only a metre from the front doors of the residents' houses and they already heard everything at the café.
6. The residents had lived there many years, and it was a residential street. They had an established human right to peace and quiet. They were already living in unacceptable circumstances and it would become worse.
7. The mixture of drinking alcohol all day and more people entering and exiting the premises would become a statutory nuisance.
8. There had been accidents caused by deliveries, including a bollard being knocked over and Ms Seed had seen two elderly people nearly run over by a reversing delivery vehicle. All this would become more dangerous with the sale of alcohol involved.

In summary, Ms Seed confirmed that the residents' main concern was noise nuisance being committed within a metre of their doorsteps and within 4 metres of their sofas in their front rooms. Alcohol made people less cautious and less aware of their impact on others.

In response to various questions from the Committee, Mr Thomas confirmed that until the planning situation was resolved the premises could not use the forecourt either for the sale of food and drink or, if the licence was granted, for the sale of alcohol.

Ms Seed confirmed that the residents had complained previously to Montelbano about noise, and about 10 days ago, had complained to Ashford Borough Council.

Mr Thomas said that they took on board the concerns about traffic and Ms Lonel could put on the website information about where people should park and could also put up signage asking people to leave quietly.

The Committee then heard from Councillor Gooch on behalf of Tenterden Town Council. Cllr Gooch said that the Council was concerned about the rights of residents. The premises was in very close proximity to the houses and serving of alcohol could have an impact on their quality of life. The Chairman expressed concern that the comments from Tenterden Town Council related mainly to the planning application.

Mr Thomas stated that concerns for what might happen in the future were not relevant to the consideration of the application. If there were a statutory nuisance the local authority would quickly intervene. He reminded the Committee that none of the statutory consultees had objected. The applicant wished to work with residents and the Committee could only impose relevant conditions.

Finally, in summing up the application, the Licensing Officer reminded the Committee that the licensing process could not be used as a 'second bite of the cherry' regarding the planning process.

The Committee retired to deliberate and make their decision. The Committee discussed the points below and, on returning, the Legal Adviser read the Reasoning Statement and the main points of discussion as follows:

1. Given the nature of the business i.e. a café/deli/ice-cream parlour, there would be no tangible difference between eating and drinking outside and drinking a small amount of alcohol outside.
2. There were lots of cafes which had sidewalk areas and caused no problems.
3. A Member did feel that if the forecourt was approved there would be some impact upon the neighbours, but this would not be materially different if alcohol was served.
4. The Committee discussed the proximity of the forecourt area to the properties. A Member said he had visited the site yesterday at about 4.30pm. He said it was not as tight a fit as had been claimed. There was some footfall to and from Tesco's and he could see that the building was suitable to operate as a café.
5. The Committee recognised that they could not assume future issues which might arise and also referred to the residents' rights to request a review of a licence, if necessary, in the future.
6. The Committee read again the submission of the applicant to the planning committee and noted the following statement: "Please note that we are

requesting an A3 use ... we are not applying for A4 or A5 uses as the premises are unsuitable in our view for a restaurant delivery operation or for licenced premises ...". The Committee noted that A3 use was for food and drink (ie which could include sale of alcohol, if a licence was given). A4 use was for drinking establishments and A5 use was hot food and takeaways. The Committee felt that this statement had been taken to mean they did not want to serve alcohol simply because they were not applying for A4 or A5 use. However A3 use did indicate a desire to sell drink and this could, given the right licence, include alcohol.

7. The Committee were satisfied with the conditions on the operating schedule, together with the amended conditions given in advance of the meeting and given at the meeting.

For these reasons, the Committee made the following decision:

**Resolved**

**That the premises licence be granted subject to the following:**

1. **The mandatory conditions relating to sale of alcohol.**
2. **The conditions set out on the operating schedule amended as follows:**
  - i) **Alcohol to be consumed on the premises will only be served to persons seated at tables within the premises and forecourt area;**
  - ii) **Alcohol to be consumed beyond the forecourt area will only be sold in sealed containers;**
  - iii) **Food will be available throughout the trading period;**
  - iv) **On-site sales of alcohol will only start at 10am;**
  - v) **The age verification scheme used will be Challenge 25;**
  - vi) **The applicant will put up signage to remind customers to respect the residential nature of the street and to leave quietly.**

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

**LICENSING SUB-COMMITTEE**  
**Friday 15 June 2018**

**APPLICATION FOR A PREMISES LICENCE FOR BOTTEGA MONTALBANO, 3  
HIGHBURY LANE, TENTERDEN, KENT TN30 6LE UNDER THE PROVISIONS OF  
SECTION 182 OF THE LICENSING ACT 2003**

**LICENSING SUB-COMMITTEE DECISION AND REASONINGS**

<b>LICENSING OFFICERS</b>	Julian Postlethwaite Trevor Ford
<b>REASON FOR MEETING:</b>	An application was made by Bottega Montelbano Ltd for a premises license for Bottega Montelbano, 3 Highbury Lane, Tenterden, Kent TN30 6LE.
<b>DELIBERATION:</b>	<p>The Licensing Officer (Mr Postlethwaite) summarised the application set out in the papers and confirmed that it was correctly made. He referred to the previous planning application for a change of use to sell food and drink and to the decision of the planning department that prior approval was not required. Therefore, the premises already has permission to open as a café but not sell alcohol. It was clarified later in the meeting that the planning permission only relates to the inside of the building and the applicants will have to apply for planning permission for an outside seating area. Mr Postlethwaite outlined that there were two representations from local residents and one from the Town Council on the following grounds: public nuisance, noise, public safety including impact of vehicles and deliveries, and protection of children from harm.</p> <p>The Committee then heard from Mr Thomas on behalf of the applicant. He explained that it does operate as a café/deli/ice-cream parlour located behind the main restaurant on Tenterden High Street. They had developed their proposals to also serve alcohol following discussions with customers. The proposal is simply to be able to offer alcoholic drinks eg a glass of wine or prosecco with light food such as afternoon tea. They anticipated no more than 30 customers at any one time, there are no proposals for late night entertainment, serving alcohol late or live music. In response to concerns of local residents Ms Lonel had put forward amended conditions which are:</p> <ol style="list-style-type: none"><li>1. Alcohol to be consumed on the premises will only be served to persons seated at tables within the premises and the forecourt area.</li></ol>

2. Alcohol to be consumed beyond the forecourt area will only be sold in sealed containers.
3. Food will be available throughout the trading period.

In addition, Mr Thomas confirmed that she would amend the hours of serving alcohol on site to start at 10am. However, off-site sales would remain as previously, starting at 8am.

In response to concerns about nuisance, Mr Thomas said there would be no external music speakers, although there would be internal incidental music, as is allowed. The DPS would manage the disposal and collection of refuse, deliveries from vehicles and all other operations in line with the procedures at the main Montelbano restaurant. He referred to the artist's sketches showing the proposals for the external and internal space. He emphasised that there would be a small supplemental offering of alcohol to go with meals and the premises would operate only as an Italian café.

In response to questions from Councillors, Ms Lonel confirmed that she would be part of the age verification scheme called Challenge 25 and would accept that as a condition, and that she, as DPS, is present during her working hours.

The Committee asked about the reference in the planning application to the statement that the premises were unsuitable to operate as a licenced premises. In response Ms Lonel said it was a bit of a misunderstanding with their planning consultant, they didn't intend to operate as a restaurant and the wording was how their planning consultant had represented their views. However, since then she confirmed that they had spoken to their customers and they had asked if the business could sell alcohol with food. She confirmed again that this would be a very small part of the business. Mr Thomas confirmed that the planning application for A3 use (food and drink) was made up front and was very clear.

The Committee then heard from Ms Jane Seed, who represented the residents of Highbury Lane. She referred to her written representations, but firstly addressed what Mr Thomas had said, as follows:

1. The premises is an icecream parlour wanting to sell alcohol, and this is a conflict relating to the safety of children.
2. The applicant says they have planning permission to serve alcohol on the forecourt, however they have not (this point was confirmed as set out above.)
3. The condition regarding sealed containers for off-site sales does not prevent anyone from unsealing and drinking alcohol.

4. Regarding the artist's impression, the reality is completely different, the screeding at the front of the premises is not level, and therefore dangerous. The interior of the building does not have any sound-proofing. When people drink they become louder, and therefore there will be a noise nuisance.
5. Serving alcohol will cause an extreme noise nuisance, particularly as the houses of Highbury Lane are only a very few metres away from the premises. The forecourt is only a metre from the front doors of the residents' houses and they already hear everything at the café.
6. The residents have lived there many years, and it is a residential street. They have an established human right to peace and quiet. They are already living in unacceptable circumstances and it will become worse.
7. The mixture of drinking alcohol all day and more people entering and exiting the premises will become a statutory nuisance.
8. There had been accidents caused by deliveries, including a bollard being knocked over and Ms Seed had seen two elderly people nearly run over by a reversing delivery vehicle. All this would become more dangerous with the sale of alcohol involved.

In summary, Ms Seed confirmed that the residents' main concern is noise nuisance being committed within a metre of their doorsteps and within 4 metres of their sofas in their front rooms. Alcohol makes people less cautious and less aware of their impact on others.

In response to various questions from the Committee, Mr Thomas confirmed that until the planning situation was resolved the premises cannot use the forecourt either for the sale of food and drink or, if the licence is granted, for the sale of alcohol.

Ms Seed confirmed that the residents had complained previously to Montelbano about noise, and about 10 days ago, had complained to Ashford Borough Council.

Mr Thomas said that they took on board the concerns about traffic and Ms Lonel could put on the website information about where people should park and could also put up signage asking people to leave quietly.

The Committee then heard from Councillor Gooch on behalf of Tenterden Town Council. Cllr Gooch said that the Council is concerned about the rights of residents. The premises is in very

close proximity to the houses and serving of alcohol could have an impact on their quality of life. The Chairman expressed concern that the comments from Tenterden Town Council related mainly to the planning application.

Mr Thomas stated that concerns for what might happen in the future were not relevant to the consideration of the application. If there were a statutory nuisance the local authority would quickly intervene. He reminded the Committee that none of the statutory consultees had objected. The applicant wished to work with residents and the Committee could only impose relevant conditions.

Finally, in summing up the application, Mr Postlethwaite reminded the Committee that the licensing process cannot be used as a second bite of the cherry regarding the planning process.

The Sub-Committee then retired to deliberate and make their decision. The Committee discussed the following points:

1. Given the nature of the business ie a café/deli/ice-cream parlour, there would be no tangible difference between eating and drinking outside and drinking a small amount of alcohol outside.
2. There are lots of cafes which have sidewalk areas and cause no problems.
3. A member did feel that if the forecourt was approved there would be some impact upon the neighbours, but this would not be materially different if alcohol was served.
4. The Committee discussed the proximity of the forecourt area to the properties. A member said he had visited the site yesterday at about 4.30pm. He said it was not as tight a relationship as had been claimed. There was a bit of footfall to and from Tesco's and he could see that the building made sense to operate as a café.
5. The Committee recognised that they could not assume future issues which might arise and also referred to the residents' rights to request a review of a licence, if necessary, in the future.
6. The Committee read again the submission of the applicant to the planning committee and noted the following statement: "Please note that we are requesting an A3 use ... we are not applying for A4 or A5 uses as the premises are unsuitable in our view for a restaurant delivery operation or for licenced premises ...". The Committee noted that A3

	<p>use is for food and drink (ie which could include sale of alcohol, if a licence is given). A4 use is for drinking establishment and A5 use is hot food and takeaway. The Committee felt that this statement had been taken to mean they did not want to serve alcohol simply because they were not applying for A4 or A5 use, however A3 use does indicate a desire to sell drink and this could, given the right licence, include alcohol.</p> <p>7. The Committee were satisfied with the conditions on the operating schedule, together with the amended conditions given in advance of the meeting and given at the meeting.</p> <p>For these reasons the Sub-Committee made the following decision.</p>
<b>DECISION MADE:</b>	<p><b>That: The premises licence be granted subject to the following</b></p> <p class="list-item-l1">1. <b>The mandatory conditions relating to sale of alcohol</b></p> <p class="list-item-l1">2. <b>The conditions set out on the operating schedule amended as follows:</b></p> <p class="list-item-l2">(i) <b>Alcohol to be consumed on the premises will only be served to persons seated at table within the premises and forecourt area;</b></p> <p class="list-item-l2">(ii) <b>Alcohol to be consumed beyond the forecourt area will only be sold in sealed containers;</b></p> <p class="list-item-l2">(iii) <b>Food will be available throughout the trading period;</b></p> <p class="list-item-l2">(iv) <b>On-site sales of alcohol will only start at 10am;</b></p> <p class="list-item-l2">(v) <b>The age verification scheme used will be Challenge 25;</b></p> <p class="list-item-l2">(vi) <b>The applicant will put up signage to remind customers to respect the residential nature of the street and to leave quietly.</b></p>

### **Right of Appeal**

- The decision takes immediate effect.

- There is a right of appeal against this decision. An appeal must be commenced by notice of appeal given by the Appellant or anybody affected by this decision to the Magistrates Court within 21 days of the date of this notice.

Dated: 15<sup>th</sup> June 2018

---

Queries concerning these minutes? Please contact Member Services:  
Telephone: 01233 330349 Email: [membersservices@ashford.gov.uk](mailto:membersservices@ashford.gov.uk)  
Agendas, Reports and Minutes are available on: <http://ashford.moderngov.co.uk>

This page is intentionally left blank

# Agenda Item 5

## **PROCEDURE NOTE FOR LICENSING HEARINGS**

1. Prior to the meeting of the Committee<sup>1</sup>, the Committee will have read and familiarised themselves with the Licensing Officer's report and documents referred to in it.
2. The hearing will take place in public, subject to a discretion to exclude the public and/or parties where the public interest in doing so outweighs the public interest in the hearing taking place in public<sup>2</sup>. The Committee may also exclude anyone behaving disruptively.<sup>3</sup>
3. The parties<sup>4</sup> are entitled to be assisted or represented by any person, whether or not legally qualified. A party is entitled to withdraw any of their representations orally at the hearing or at least 24 hours before the day or the first day of the hearing.<sup>5</sup>
4. The Committee may extend any time limit in the Regulations for a specified period where it considers this to be necessary in the public interest, but must state the period of the extension and the reason for it.<sup>6</sup> For example, the Committee may extend the time for making a request to call a witness (see paragraph 16- below).
5. Where a party has notified the authority that he does not intend to attend, the Committee will proceed with the hearing in his absence. Where he has not so notified the authority but does not attend, the Committee may adjourn the hearing to a specified date where it considers it necessary in the public interest to do so. Otherwise, it will proceed with the hearing.<sup>7</sup>
6. Before proceeding in the absence of a party who has not indicated that they do not wish to attend, the Licensing Officer will attempt to ascertain the reason for that party's non-attendance.
7. The Committee may adjourn the hearing to a specified, or extra, date where it considers this to be necessary for the determination of the case.<sup>8</sup> There are limitations on the ability of the Committee to adjourn the case beyond the time limits for determination during the transitional period and on reviews following closure orders by the police.<sup>9</sup>
8. At the outset of the meeting, a Chair will be elected and any personal and/or prejudicial interests declared.<sup>10</sup>

---

<sup>1</sup> In this Note the expression "the Committee" includes a sub Committee.

<sup>2</sup> Reg 14 Licensing Act 2003 (Hearings) Regulations 2005

<sup>3</sup> Reg 25.

<sup>4</sup> Reg 2(1) "a person to whom notice of the hearing is to be given under Reg 6(1)" – includes objectors and responsible authorities, such as the Police.

<sup>5</sup> Reg 10

<sup>6</sup> Reg 11.

<sup>7</sup> Reg 20.

<sup>8</sup> Reg 12.

<sup>9</sup> Reg 13.

<sup>10</sup> Model Code of Conduct

9. Except where the Regulations make specific requirements, the procedure will be in the discretion of the Committee.<sup>11</sup>
10. At the beginning of the hearing, the Committee will explain to the parties the procedure it proposes to follow.<sup>12</sup>
11. The Chairman will indicate that all the papers before the Committee have been read and that the Committee is familiar with the issues. He will ask the parties to avoid repetition.
12. The Chairman will indicate the order of presentation.
13. If there are a number of objectors present, the Chairman may request that a spokesperson be appointed. He will make it clear that any party<sup>13</sup> who wishes to speak will be able to do so, and that the appointment of a spokesperson does not mean that the objections of any interested party will be given less weight.
14. The Chairman may also indicate how the Committee intends to deal with conditions proposed by the parties or by the Committee itself. He may ask the parties to attempt to agree a schedule of conditions for use if the Committee is minded to grant the application. This will not mean that the Committee has formed any view of the merits. It will only come to its decision at the end.
15. A party is entitled to be represented or assisted by another person, whether or not that person is legally qualified.<sup>14</sup>
16. If a party wishes a person (other than himself or his representative) to appear at the hearing he must have made a request to do so prior to the hearing within the times prescribed in Reg. 8. The request must name the person and give a brief description of the point(s) on which that person may be able to assist. In such a case, the Committee will determine the application for permission at the outset of the hearing.<sup>15</sup> In determining that request, the authority will consider the representations of all parties upon the matter and may consider the relevance of the proposed evidence, the assistance it will in fact offer to the Committee and the prejudice to the parties, if the evidence is admitted or excluded.<sup>16</sup>
17. Each of the parties has a right to:
  - a. address the Committee;
  - b. give clarification of any point, where such clarification has been sought by the Council in its notice of hearing;
  - c. question any other party, but only where this is expressly permitted by the Committee (see para 21 below).<sup>17</sup>

---

<sup>11</sup> Reg 21.

<sup>12</sup> Reg 22

<sup>13</sup> see footnote 4

<sup>14</sup> Reg 15.

<sup>15</sup> Reg 22

<sup>16</sup> Reg 22

<sup>17</sup> Reg 16.

18. The Committee must allow an equal maximum time for the parties to exercise their rights as set out in para 17 above.<sup>18</sup>
19. The Committee will set the time of the hearing at the outset, having regard to its view of the length reasonably required for the hearing. It may hear the parties briefly before setting the maximum time. It may extend the time where circumstances require.<sup>19</sup>
20. The hearing is to take the form of a discussion led by the Committee.<sup>20</sup> The Chairman will ensure that within the discussions, all parties are given an opportunity to state their case as set out in their written application/representations and to meet the case of opposing parties.
21. Cross-examination will not be permitted unless the Committee considers that it is required for it to give proper consideration to the case.<sup>21</sup> Any application to cross-examine will be heard and dealt with at the hearing.
22. The Committee may consider cross-examination to be required, for example, where there is a genuine issue of fact, which can only be resolved fairly through cross-examination.
23. The Committee may question any party or other person(s) appearing.<sup>22</sup>
24. The Committee may take into account documentary or other information provided by a party before the hearing. Information produced at the hearing may only be taken into account with the consent of all other parties.<sup>23</sup> The parties are therefore strongly recommended to exchange documentary evidence and brief summaries of any proposed witness evidence at least 5 days before the hearing, otherwise they may be restricted in the information they can put before the committee. Any material exchanged should also be given to the licensing authority at the same time.
25. The Committee must disregard any information given which is not relevant to the application, representations or notice of the party giving the information. The Committee must also disregard any information which is not relevant to the promotion of the licensing objectives.<sup>24</sup>
26. In certain circumstances, the Committee is required by law to make its determination at the conclusion of the hearing. This includes certain applications made during the transitional period, counter-notices following police objections to temporary events notices, and reviews of premises licences following closure orders. Otherwise the Committee is required to determine the application within five working days of the day or the last day on which the hearing was held<sup>25</sup>.

---

<sup>18</sup> Reg 24.

<sup>19</sup> Reg 11

<sup>20</sup> Reg 23.

<sup>21</sup> Reg 23.

<sup>22</sup> Reg 17.

<sup>23</sup> Reg 18.

<sup>24</sup> Reg 19.

<sup>25</sup> Reg 26.

27. The Committee will give reasons for its decision and will confirm the decision in writing to the parties.

# Agenda Item 6

**Agenda Item No:**

**Licence Reference**    **LN/020080544**



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

**Date:**                  **Thursday 24 January 2019**

**Report Title:**         **Licensing Act 2003 - Application is made for the review of the premises licence in respect of The Cod Father, 15 High Street, Ashford, Kent, TN24 8TH on the grounds of the prevention of crime and disorder and public safety.**

**Report Author:**       **Alison Simmonds**

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

**Summary:**              Application type: **Application is made for the review of the premises licence under the provisions of section 51 of the Licensing Act 2003.**

Applicant:               **Chief Inspector 10040 Andrew Somerville, on behalf of the Chief Officer of Police**

Premises:                **The Cod Father, 15 High Street, Ashford, Kent, TN24 8TH**

To advise elected members of a valid 'Application for a Review of a Premises Licence' under Section 51 of the Licensing Act 2003 has been received and a hearing and determination is required under Section 52(2) of the Act.

**Key Decision:**        **NO**

**Affected Wards:**      **Victoria Ward**

**Recommendations:**    **That the Licensing Sub-Committee makes a determination, as required by Regulation 26(2) of the Licensing Act (Hearings) Regulations 2005.**

**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 and this includes determinations for applications to review.

**Exemption Clauses:** Not applicable

**Background Papers:** None

**Contacts:** [alison.simmonds@ashford.gov.uk](mailto:alison.simmonds@ashford.gov.uk)

**Agenda Item No.**

**Report Title:** **Licensing Act 2003 - Application is made for the review of the premises licence in respect of The Cod Father, 15 High Street, Ashford, Kent, TN24 8TH on the grounds of the prevention of crime and disorder and public safety.**

### **Purpose of the Report**

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

Application type: **Application is made for a review of a premises licence**

Applicant: **Chief Inspector 10040 Andrew Somerville on behalf of the Chief Officer of Kent Police.**

Premises: **The Cod Father, 15 High Street, Ashford, Kent, TN24 8TH**

### **Issue to be decided**

2. Members are asked to consider an application to review a premises licence received under the provisions of section 51 of the Licensing Act 2003.

### **Background**

3. The Licensing Act 2003 (the Act), directs that a premises licence is required for any venue where any 'licensable activity' is carried out. Such activities include the sale or supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment.
4. Representations are only valid where they relate 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) the protection of children from harm
5. An application for the review of these premises has been received from Kent Police under the objectives of the prevention of crime and disorder and public safety;
  - The prevention of crime and disorder and public safety– Incidents of crime and disorder at or associated to the premises, in particular the use of weapons.

This application was also circulated to other responsible authorities to give them the opportunity to make representations. (Police, Fire and Rescue Service,

Environmental Health, Trading Standards, Social Services, a health body, Planning authority and the Home Office). The application is appended at **Appendix A**.

Additional information to support the application was submitted to Licensing on Friday 4<sup>th</sup> January 2019 and is at **Appendix B**.

6. In accordance with the Act the application has been correctly displayed by way of a notice at the premises, displayed from 26<sup>th</sup> November, 2018, on the Council's website and on a notice board at the Council offices at the Civic Centre. A copy of the notice is appended at **Appendix C**
7. Before determining the review application, the Council licensing authority must hold a hearing to consider it and any relevant representations received.
8. There have been no representations from other responsible authorities, or interested parties.
9. All applications for the review of a premises licence require the applicant to state the grounds for the review. In summary the application for a review states the following problems:
  - a) A causal link between disturbance and the licensable activities at the premises
  - b) How staff left the safety of the premises, brandishing weapons and became involved in the disturbance
  - c) How the actions of the staff, the failure of the premises licence holder to uphold the licensing objectives and the lack of cooperation following the incident suggest this presents a risk to public safety in the future.

The Guidance suggests that where authorised persons and responsible authorities have concerns about problems identified at a premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review.

A meeting was held on Tuesday 23<sup>rd</sup> October 2018 with Mr Ahmadzai, PC Alistair Pringle and Ashford Borough Council's Licensing Officer, Mr Julian Postlethwaite. Mr Ahmadzai gave his account of the evening and PC Pringle proposed the following;

- To reduce the timings for late night refreshment from 0500 to 0430 hours
- Staff to undergo conflict management training
- Security staff be present.

Mr Ahmadzai explained he did not want to alter his timings or his conditions as this would have a negative impact on his business.

A letter detailing the proposals was sent on Friday 26<sup>th</sup> October in which it asked for action to be taken to implement the proposals within 10 days, or Kent Police would consider submitting an application to review the licence. **See Appendix D** On Wednesday 13<sup>th</sup> November an incomplete application was received by Ashford Borough Council to transfer the premises licence to a 3<sup>rd</sup> party. As the application was

incomplete, this was returned. A further transfer application was withdrawn by the applicant following objections by Kent Police

10. This application for a review of the premises licence is based upon the following event:

- 7<sup>th</sup> October 2018

At 04.47 hours an Ashford Borough Council CCTV operator made a radio call to Kent Police to advise there was a fight in the High Street involving a number of males. During this altercation, 4 vehicles were damaged and weapons were used.

The Manager of the Codfather was arrested for being in possession of an offensive weapon and has since received a caution for this.

## History

11. The premises is situated on Lower High Street, Ashford, within the town. The current premises licence holder is Mr Sahargul Ahmadzai. It is licensed for late night refreshment only (indoors only). The premises has been licensed since June 2009.

12. The premises licence, as in **Appendix E**, permits the following activities:

<i>Late Night Refreshment</i>	<i>Opening hours</i>
Sunday 23.00 - 05.00	Sunday 12.00 - 05:00
Monday 23.00 - 05.00	Monday 11:00 - 05.00
Tuesday 23.00 - 05:00	Tuesday 11.00 - 05.00
Wednesday 23.00 - 05.00	Wednesday 11.00 - 05.00
Thursday 23.00 - 05.00	Thursday 11.00 - 05.00
Friday 23.00 - 05.00	Friday 11.00 - 05.00
Saturday 23.00 - 05.00	Saturday 11.00 - 05.00

## Hearings Regulations

34. Regulations governing hearings under the Licensing Act 2003 have been made by the Secretary of State.

35. The Licensing Authority has provided all parties with the information required in the Regulations to the 2003 Act including:

- a copy of the Notice of Hearing;
- the rights of a party provided in Regulations 15 and 16;
- the consequences if a party does not attend or is not represented at the hearing.

- hearing
- the procedure to be followed at the hearing.

## Appeals

36. The Licensing Act 2003 Section 181 and Schedule 5 makes provision for appeals to be made by the applicant; the holder of the premises licence and those making representations against decisions of the Licensing Authority to the Magistrates' Court within 21 days of the determination.

## Recommendations

37. That Members carefully consider the application for review and take such steps as detailed in paragraph 39 below that the Sub-Committee consider necessary for the promotion of the licensing objectives

## Decision options open to members

38. The Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

39. Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, (this premises is licensed for late night refreshment only)
- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- or revoke the licence.

40. In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.

41. The Licensing At 2003 at section 52(11) states that:

*"A determination under this section does not have effect –*

- a) until the end of the period given for appealing against the decision, or*
- b) if the decision is appealed against, until the appeal is disposed of."*

## **Consultation**

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

## **Handling**

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

## **Conclusion**

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

## **Further Information**

Contact:	Licensing Officer
Email:	alison.simmonds@ashford.gov.uk

## **Summary of Appendices**

**Appendix A:** Application to review

**Appendix B:** Additional information from Kent Police

**Appendix C:** Copy of public notice

**Appendix D:** Kent Police letter to the licence holder

**Appendix E:** Premises Licence

## **HUMAN RIGHTS**

### **Article 8**

Everyone has the right to respect for his private and family life, his home and his correspondence.

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**

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.

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.

This page is intentionally left blank

**Application for the review of a premises licence or club premises certificate under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.  
You may wish to keep a copy of the completed form for your records.

**I, Chief Inspector 10040 Andrew Somerville on behalf of the Chief Officer of Police**

**Apply for the review of a premises licence under Section 51 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)**

**Part 1 – Premises or club premises details**

**Postal address of premises or, if none, ordnance survey map reference or description**

Codfather, 15 High St, Ashford TN24 8TH

<b>Post town</b> Ashford	<b>Postcode (if known)</b> TN24 8TH
-----------------------------	--

**Name of premises licence holder or club holding club premises certificate (if known)**

Mr Sahargul Ahmadzai

**Number of premises licence or club premises certificate (if known)**

AS/LN/020080544

**Part 2 – Applicant Details**

I am,

**Please tick yes**

- 1 An interested party (please complete (A) or (B) below)
  - a) a person living in the vicinity of the premises
  - b) a body representing persons living in the vicinity of the premises
  - c) a person involved in business in the vicinity of the premises
  - d) a body representing persons involved in business in the vicinity of the premises
- 2 A responsible authority (please complete (C) below)

- 3 A member of the club to which this application relates  
(please complete (A) below)

**(A) Details of Individual Applicant (fill in as applicable)**

**Please tick**

Mr  Mrs  Miss  Ms  Other title (eg, Rev)

**Surname**

**First names**

**I am 18 years old or over**

**Please tick yes**

**Current postal  
address if different  
from premises  
address**

**Post town**

**Post code**

**Daytime contact telephone  
number**

**Email address (optional)**

**(A) Details of Other Applicant**

**Name and address**

**Telephone number (if any)**

**Email address (optional)**

## (B) Details of Responsible Authority Applicant

Kent Police  
Ashford Police Station  
Tufton Street  
Ashford  
Kent  
TN23 1BT

**Telephone number (if any)** 01233 896354

**Email address (optional)** 10699@kent.pnn.police.uk

### This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- |  |   |
|--|---|
| 1 The prevention of crime and disorder | X |
| 2 Public safety                        | X |
| 3 The prevention of public nuisance    |   |
| 4 The protection of children from harm |   |

### Please state the ground(s) for review (please read guidance note 1)

The Prevention of Crime and Disorder and Public Safety

Incidents of crime and disorder at or associated to the premises, in particular the use of weapons.

### Please provide as much information as possible to support the application (please read guidance note 2)

**Overview:** Kent Police are making this application for a review of the premises licence, because staff at a premises providing late night refreshment have left the premises, brandished offensive weapons and become involved in a large disturbance outside. This clearly undermines the crime prevention objective, and puts the safety of the public at risk.

In this application, Kent Police will demonstrate the following:

1. A causal link between the disturbance and the licensable activities at the premises
2. How staff left the safety of the premises, brandishing weapons and became involved in the disturbance
3. How the actions of the staff, the failure of the premises licence holder to uphold the licensing objectives, and the lack of cooperation following the incident suggest that this presents a risk to public safety in the future.

The Cod Father is a single level outlet which provides fish & chips, kebabs and burgers mostly to those enjoying the Ashford night time economy.

The venue is accessible to the public by a glass fronted door facing the High Street. The venue has a public seating area, and a high counter where food is displayed and sold from. The venue has CCTV. They are not members of any known pub or shop watch scheme. The Cod father is registered on Companies House with a Mr Khaista Ahmadzai being the only director of the company since 1<sup>st</sup> October 2018. The premises licence holder Mr Sahargul Ahmadzai is not named.

The Current Premises Licence was issued by Ashford Borough Council to Mr Sahargul Ahmadzai in January 2017.

On Sunday 7<sup>th</sup> October 2018 at 04:47 hours a CCTV operator working for Ashford Borough Council relayed information to Kent Police about a fight taking place in the High Street, Ashford involving a number of males. Initially the fight is described as 'males grappling'. The disturbance started outside a neighbouring business approximately ten meters away from the Cod Father. As the fight continues the group move closer down the High Street towards the premises. During the disturbance a group of males can be seen coming in and out of the Cod Father.

The report described a 'male brandishing a knife' in the street. Footage shows a male standing in front of the group fighting. He turns and walks straight into the Cod Father through the open door. He returns seconds later with a knife hidden behind his back. He approaches the disturbance before members of the public appear to convince him not to use it. He then returns to the Cod Father. The knife was approximately two foot long; with a thin blade the handle could not be seen. There was a lull in the fighting, until a male involved in the fight got into the driver's seat of the vehicle he arrived in which was parked on the same side as the Cod Father. The driver was the victim whom was assaulted by the group at the start of the disturbance. He navigated his vehicle around the bollards, across the road at a right angle and drove into the front end of the white truck some of the offending group arrived in. The truck is seen rocking sideways as it was struck. The move was clearly deliberate, and in no way could be described as a driver error. The damage to the white truck was minimal. In apparent retaliation a third vehicle driven by persons involved in the fight rammed into the back of the first vehicle, causing it to smash into the rear of a parked vehicle. The impact was so strong that the parked car was projected across to the other side of the High Street. That car belonged to the manager of the Cod Father. Thankfully and surprisingly no pedestrians were injured by the vehicles. A female onlooker who was not involved could be seen holding her head and covering her mouth in shock. The first vehicle fled the scene, and as it did so a male was seen attempting to smash its windscreen as it travelled down the High Street.

Further fighting took place directly outside the Cod Father. It was reported that a male armed with a bat, shown to be a standard sized cricket bat in the footage, was viewed using this to hit one of the males involved in the fight. The footage showed that on at least two occasions the bat was swung in a downward clubbing

motion towards the man's upper body and head. However the man managed to jump backwards and it is not clear if contact was made. The male with the cricket bat, produced it from the Cod Father, and as Police Officers attended the scene, he fled back into the Cod Father with the weapon. A male with what looked to be a broom handle also fled into the Cod Father after striking people in the street.

Police patrols attended, and upon arrival persons were seen fighting, a 25 year old male who was the manager of the Cod Father was arrested for being in possession of an offensive weapon. Enquiries by Officers at the scene established that he brought a baseball bat into the street, and when Police arrived he placed it inside his vehicle. He was interviewed and accepted that his possession of the baseball bat could not have been in self-defence and as a result of this he accepted a formal caution for possessing an offensive weapon in a public place. A second male was arrested for an unrelated matter. The majority of persons involved in this incident did not engage with the Police. Whilst there were clearly assaults and potential injuries from being struck with weapons and bodily force this incident only resulted in three offences being recorded, a common assault, an offensive weapon and an affray.

Kent Police intend to show this footage during the review hearing. Persons clearly linked to the Cod Father exited the premises through the front door during their opening times to confront a disturbance in the street by persons the premises licence holder had said on two occasions were his customers. At the start of the disturbance several males from the venue appear to attempt to defuse the situation by pulling persons away and attempting to stand between parties involved in the altercation. One of them brings a bladed weapon in the public but returns without using it. Once the vehicle belonging to the manager was damaged the males connected to the premises appear to lose sight of their responsibilities and commit public order offences. The Cod Father was not able to produce CCTV which would have been used by Kent Police to identify those persons carrying and using the cricket bat, the knife and the broom handle. Apart from the behaviour itself, the fact that CCTV could not be provided was an attempt to hinder the Police investigation, protect their own interests, whilst having no regard to the licensing objectives.

**It was the professional actions of the CCTV operator and the rapid deployment of police patrols that were responsible for limiting the risk of both serious injury to those involved in the disturbance and other members of public. Neither the staff or management of the Cod Father contacted emergency services, and their actions only served to further aggravate and escalate this situation.**

The manager, led by poor example after his vehicle was damaged, and being aggrieved by having his vehicle damaged he brandished a baseball bat. The fact that the items were so readily available during the disorder is a concern.

After a number of unsuccessful attempts, on 19<sup>th</sup> October 2018 at 12:50 hours, the Police Licensing officer, PC Pringle managed to speak to Mr Sahargul Ahmadzai, who identified himself as the premises licence holder. When asked if there was an ongoing feud between staff at the Cod Father and others involved in

the disturbance, he replied "No they are good people, they are our customers." He was invited to a further meeting at the Police Station to discuss what had taken place.

On Tuesday 23<sup>rd</sup> October 2018 Mr Sahargul Ahmadzai attended the Police Station for a meeting with PC Pringle and Mr Postlethwaite (Licensing Officer). When asked as to what led to members of staff picking up weapons, Mr Ahmadzai replied that he had closed at 04:00 hours and was upstairs at the time of the fight. The manager Mr Khaista Ahmadzai was cashing up in the shop. The fight was outside of another late night food outlet nearby.

Mr Sahargul Ahmadzai said that when the manager's car was hit, members of staff came out. When questioned about the control of his staff, he explained that he was not responsible. To explain this he said that an employer could not be responsible for staff once they had left on their way home for example. Mr Sahargul Ahmadzai states he was hit by the big guy when telling them to go away from his shop.

PC Pringle asked the same question – "*What led to members of staff picking up weapons?*". Mr Sahargul Ahmadzai said, "*When they hit the car, they had knuckle dusters. Yes they are our customer, they are normally okay, but they were drunk*".

Footage of the incident was also shown to Mr Sahargul Ahmadzai. The footage shows a male walk towards the Kabab shop and returning to the scuffling groups with a metallic object which Kent Police believes is a kebab knife or sharpener. When this was pointed out to the premises licence holder he said that it wasn't a knife. He was asked if he knew the male holding the weapon. At first he said it was a customer, and then said that he didn't know who it was.

Police asked why didn't staff members simply go back inside and lock the doors. Mr Sahargul Ahmadzai said that he did tell them to do this; he went on to say "*If someone tried to punch you with knuckle dusters you'd try to defend yourself*".

Mr Sahargul Ahmadzai stated that he tells his staff, that if a fight happens, they should lock the door, and turn the lights off. He confirmed that they do have a panic alarm. When asked why it wasn't activated, he said that it wouldn't have worked because the shop was closed. He went on to confirm that the alarm does not work when the shop isn't open. He confirmed the opening times of the shop as 11:00 to 05:00 hours and said that on this night they closed early because of the fight. This suggests he was open at the time of the disturbance.

Mr Sahargul Ahmadzai said that he normally operated the business with five members of staff, he confirmed that if there was a fight taking place and it was showing no signs of stopping that he would then call the police. He said that only staff were allowed to enter the second door which lead up to the private accommodation areas and that customers would never be allowed up there. This is a further indication that the persons leaving the premises brandishing weapons were indeed members of staff.

It was confirmed that the Cod Father does have CCTV. Mr Sahargul Ahmadzai

said that the CCTV system had not been checked for two to three years, he did not appear to be aware of the recording duration, but suggested that it may record for 24 hours.

It was noted that he had presented a CCTV hard drive to police, however as it would have only retained 24 hours' worth of footage it would not have assisted the investigation, and therefore it was not seized.

It was explained that Kent Police wanted to ensure that premises open late are well operated and that simple crime reduction measures such as CCTV are working correctly, and that evidence from them can be accessed quickly when its needed to promote the licensing objective of the 'Prevention of Crime and Disorder'. Mr Sahargul Ahmadzai agreed with this. Kent Police put forward a number of conditions that would help to address concerns and promote the 'Prevention of Crime and Disorder' and 'Public Safety' objectives through better control of CCTV, security / training and timings.

Each condition was read through and discussed.

In response the premises licence holder said "*There aren't any problems, there's no point – the fight was outside, not inside – this is not a pub.*"

Kent Police proposed that the premises reduce their operating timings, so that sales of late night refreshment concludes at 04:30 hours to allow them sufficient time to close at 05:00 hours.

Mr Sahargul Ahmadzai said that it wouldn't be good for his business, and suggested that they must match the opening times of another late night refreshment outlet nearby. He said that they wanted the timings to remain as they were until 0500 hours.

The fact that staff members felt the need to pick up weapons strongly indicates a lack of effective supervision and training, therefore Kent Police put forward a condition that all staff should be trained in 'conflict management'. Mr Sahargul Ahmadzai said that this is covered as part of his staff training and that they are issued with a certificate.

Kent Police again expressed concerns about public safety and the need to some level of control at the premises, so therefore asked if the use of security staff would be considered. Mr Sahargul Ahmadzai said he would not do this.

Given that Mr Sahargul Ahmadzai stated that he had closed the shop at 04:00 hours and members of staff were inside cleaning or cashing up, and that the males were seen coming to and from the premises on CCTV it shows that they were members of staff, under the control of either the manager or the premise licence holder.

Given the manager was arrested and cautioned for an offence of 'offensive weapon' it shows that urgent changes are needed to promote the Licensing Objectives.

On 26<sup>th</sup> October 2018 Kent Police sent a letter recorded delivery to Mr Sahargul

Ahmadzai at the premises detailing the contents of the meeting and again proposing the conditions discussed. Because of the protracted time and lack of any tangible positive movement from the Premises Licence Holder, the letter highlighted that should efforts not be made to introduce the measures outlined by Kent Police within 10 days, we would consider taking the licence to review'

On the 13<sup>th</sup> November 2018 Ashford Borough Council received an incomplete application to transfer the licence which was returned. There has been no variation to the conditions and It appears that the Cod Father is not willing to take ownership of the issues directly connected to the operation of the business or the members of staff under its control. Therefore Kent Police have no option other than to bring this matter to the attention and review of the Licensing Committee so that a suitable determination can be made.

In the last two years Kent Police have been notified of a total of 16 incidents at or connected to the venue. Including a total of 12 disturbances, 2 recorded assaults, an incident of 'threats' and one of theft.

Given that the premises did not notify Police themselves regarding the incident on the 7<sup>th</sup> October 2018 and instead chose to involve themselves, there is a strong possibility that the crime figures only show a glimpse of the levels of 'Crime and Disorder' at this venue. Kent Police have concerns that allowing the premise to continue in its current form will put the public at risk, and undermine Police efforts in bringing offenders to justice.

#### **Recommendations:**

Kent Police have concerns about the ability of the Premises Licence Holder to uphold the licensing objectives. Furthermore, there is a concern based on the lack of recognition by the Premises Licence Holder that he has not upheld the objectives, despite efforts to communicate this to him, and that he would be unlikely to follow any unique conditions that may be imposed. It is therefore a recommendation of Kent Police that the Premises Licence be revoked.

Should it be decided not to revoke, Kent Police would ask that consideration be made to suspend the licence for a period of no less than 3 months. This would be sufficient time to allow the premises licence holder to fully train staff, and implement the conditions put forward to them during a meeting and later in writing which include:

#### **CCTV**

1. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting condition particularly facial recognition.
  - Cameras shall encompass all ingress and egress areas to the premises and all areas where the supply of late night refreshments occurs.
  - Equipment must be maintained in good working order, be correctly time and date stamped, recordings MUST be kept on the hard drive, kept for a minimum period of 28 days, and handed to Police or member of the Local Authority upon reasonable request.
  - The premises licence holder must ensure at all times an appointed member of staff is capable and competent at downloading CCTV footage in a recordable

format to the Police and Local Authority upon reasonable request.

2. Notices are to be placed and displayed on the door and tills advising that CCTV is in operation.

#### SIA Door staff

3. When the premises are open for trading after 23:59 hours, the premises licence holder will clearly identify a person who is accountable for the business. This person will be present in the premises until the business closes for trade

At all times if trading beyond 23:59 these premises must employ two Security Industry Authority door supervisors. These door supervisors are to be dedicated to the role and not just working on the premises. They are to remain on the premises until the premises are clear of all members of the public. All door supervisors must ensure their badges are being worn and displayed whilst working and wear reflective clothing that can be easily and clearly identifiable on CCTV.

Prominent clear and legible notices will be displayed at the exits asking customers to respect the needs of local residents and to leave the premises and area quietly.

An incident book is to be maintained at all times and any incident relating to crime and disorder reported to the Police immediately.

#### TRAINING

4. All staff, paid or unpaid will be trained with regard to 'conflict management'. A register of completed training should be kept at the premises and be made available to Police and Local Authority on demand  
Refresher training will take place on an annual basis.

All staff will have individual training records that detail the date and nature of training.

All records will be kept for a period of 2 years.

#### TIMINGS

5. Last orders taken at 04:30 (to ensure that the premises can close of 05:00 hours as per the premises licence)

Please tick yes

Have you made an application for review relating to this premises before

If yes, please state the date of that application

Day Month Year

--	--	--	--	--	--

If you have made representations before relating to this premises please state what they were and when you made them

Please tick  
yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures (please read guidance note 3)**

**Signature of applicant or applicant's solicitor or other duly authorised agent (see guidance note 4). If signing on behalf of the applicant please state in what capacity.**

Signature:



PC 10699 Pringle on behalf of CH/INSP 10040 Somerville. Date 23/11/2018

Capacity – Area commander

**Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)**

PC 10699 PRINGLE  
Ashford Police Station  
Tufton Street

Post town	Ashford	Postcode	TN23 1BT
<b>Telephone number (if any)</b> 01233 896354			
<b>If you would prefer us to correspond with you using an email address, please provide your email address (optional)</b> 10699@kent.pnn.police.uk			

**Notes for Guidance**

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details, for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example, solicitor) may sign the form on their behalf provided that they have actual authority to do so.

5. This is the address which we shall use to correspond with you about this application.

This page is intentionally left blank



## Ashford Police Community Safety Unit

Ashford Police Station, Tufton Street, Ashford, Kent TN23 1BT  
Telephone: 01233 896354

Date: 4th January 2019

Dear Sir/Madam,

**Re: Codfather, 15 High St, Ashford TN24 8TH.**

**Further to my application to review the premises licence at the Cod Father 15 High Street, Ashford, Kent, TN24 8TH please find attached additional information in support of the application.**

1. Further letter sent to the premises licence holder Mr Sahar Gul Ahmadzai – hand delivered by Police on the 4<sup>th</sup> January 2019. This letter is an invitation for the licence holder and/or his representative to attend the Police Station or any other location to view the CCTV which will be shown on the day of the hearing. Kent Police have suggested three separate times and dates, whereby the footage could be viewed by the premises licence holder or their representatives. Should those dates not be suitable then contact was requested so an alternative arrangement could be made.

Within the letter Kent Police request further information from the licence holder which included:  
Further information to show what training members of staff from the Cod Father have had in respect of 'conflict Management' as well as the associated certificates to show its completion.  
Kent Police also request the premises provide details of all members of staff who were working on the night of the 6<sup>th</sup> October 2018 into the 7<sup>th</sup> October 2018. The licence holder is asked to confirm the CCTV is fully operational and that should access be required by Kent Police this will be facilitated.

2. A summary of incidents/calls to the Cod Father 15 High Street, Ashford, Kent, TN24 8TH from February 2016 to date. This document includes a summary of each call, and how each matter was resolved.
3. CCTV stills and summery of each, which show particular moments from the footage caught by Ashford Borough Council monitoring centre on the 7<sup>th</sup> October 2018. The footage shows a view of the High Street, Ashford and contains persons holding or using offensive weapons in public. The specific images will be shown on the day of the hearing, and are not intended for public viewing.
4. Document titled 'Recommendations'. This document contains recommendations made by Kent Police following concerns that the Cod Father 15 High Street, Ashford, Kent, TN24 8TH is failing to promote the licensing objectives of the 'Prevention of Crime and Disorder' and 'Public Safety'. The recommendations are put forward with the view to support the premises in its obligation to promote the licensing objectives.

Yours Sincerely

PC 10699 Pringle  
Licensing Officer  
Community Safety Unit  
Ashford Police Station.





## Ashford Police Community Safety Unit

Ashford Police Station, Tufton Street, Ashford, Kent TN23 1BT  
Telephone: 01233 896354

Date: 3<sup>rd</sup> January 2019

Dear Mr Sahargul Ahmadzai,

**Re: Codfather, 15 High St, Ashford TN24 8TH.**

Prior to the hearing to review the premises licence at the Cod Father, 15 High Street, Ashford, TN24 8TH I wanted to extend an invitation for you and/or your legal representative to view the CCTV I intend to show to the Licensing Committee during the hearing.

It is only fair that you and/or your representative have access to the footage to allow you to see what will be shown. This may assist you in your preparation for the hearing.

The footage is the same footage I showed you during our meeting at Ashford Police Station on the 23<sup>rd</sup> October 2018 in the presence of Mr Postlethwaite – Licensing Officer, Ashford Borough Council.

The footage has been edited to reduce its length. Due to the fact that other members of the public, who were not involved in the incident, are identifiable from the footage, I feel that this is the most appropriate way forward to ensure data protection is not breached or that they are put at any disadvantage by the footage becoming public. Therefore I am inviting you or your representative to view it on the following times/dates. Please can you let me know if you would like to view the footage or not and when would be the best time/date for you?

I am available on Wednesday 9<sup>th</sup> January 2019 at any time between 9am and 3pm.  
**(I can change my shift to an evening meeting should this be preferable to you).**

I am available on Friday 11<sup>th</sup> January 2019 at any time between 8am and 3:30pm.

I am available on Tuesday 15<sup>th</sup> January 2019 at any time between 8am and 4pm.  
**(I can change my shift to an evening meeting should this be preferable to you).**

If these times or dates are not suitable to you or your representative you can contact me, I will be flexible to ensure you have sufficient access to the footage.

My contact details are:

Telephone: 01233 896354

Or email: [10699@kent.pnn.police.uk](mailto:10699@kent.pnn.police.uk)

My postal address is: Ashford Police Station, Tufton Street, Ashford, Kent, TN23 1BT.

Or you can attend the front counter and ask if I am available.

Should you not wish to attend the Police Station, I am happy to arrange a meeting with you at a location away from the Police Station, such as the Council Offices, or at another suitable location we can agree on.

During our meeting on the 23<sup>rd</sup> October 2018 you said that members of staff at the Cod Father already have 'conflict management' training. The training will explain to members of staff how they should deal with 'conflict in the work place' when dealing with members of the public should problems arise. You told me that members of staff have already completed such training and have certificates.

Please can you provide details of what training members of staff have already undertaken and can you provide copies of the certificates so that I can understand the extent of that training? If you could provide the paperwork and details of the training to Ashford Police Station I would be most grateful.

During our conversation you suggested that you had not checked your CCTV for several years. Can you now confirm that it is fully operational, and that you are fully aware of how it operates so that should Kent Police need to utilise the footage we will be able to do so?

# Community safety unit



Kent  
Police



ASHFORD  
BOROUGH COUNCIL

Finally please can you supply me with details of all of your employees that were working on the night of the 6<sup>th</sup> into the 7<sup>th</sup> October 2018?

Should you have any questions or queries regarding this letter or any other licensing matter don't hesitate in contacting me.

Yours Sincerely

A handwritten signature in black ink, appearing to read "PC 10699".

PC 10699 Pringle  
Licensing Officer  
Community Safety Unit  
Ashford Police Station.

Cod Father 15 High Street, Ashford, TN24 8<sup>TH</sup> – Calls and incidents to the premises or in the vicinity and connected:

The term 'CAD' means 'Computer aided dispatch' – this is a reference number generated by the Kent Police Control room, when contact is made concerning a crime, incident or information. The report details relevant information such as a description of an incident, who dealt with it, and the outcome.

Each CAD has been summarised below to ensure personal information held on the original is not inappropriately shown.

The calls are details from the 21<sup>st</sup> February 2016. The reason for this is to show the frequency and type of incidents Kent Police are called to resolve. It also shows the increase in incidents since 2017, albeit these so match those in 2016.

**The summery below shows that in 2016 there were nine incidents described as disturbances, assaults, and threats. In 2017 there were three incidents described as two disturbances and a fight. In 2018 there were nine incidents described as being eight disturbances and one theft.**

#### Summery

##### CAD 21-0074. (Sunday)

Call Type: Disturbance. On Sunday 21<sup>st</sup> February 2016 at 01:34 hours Kent Police were contacted with regards to a female causing a disturbance at the Cod Father. The female was calling someone a 'Slave'. Kent Police officers attended and words of advice were provided to those involved. No crime report was recorded.

##### CAD 21-0173. (Sunday)

Call Type: Disturbance. On Sunday 21<sup>st</sup> February 2016 03:53 hours Kent Police were contacted with regard to a fight taking place at the Cod Father. No weapons were involved, and the fight was brief. The persons involved dispersed and no crime reports were recorded.

##### CAD 18-0001. (Monday)

Call Type: Disturbance. On Monday 18<sup>th</sup> April 2016 at 00:03 hours members of staff from the Cod Father contacted Kent Police in relation to two males who were causing a disturbance. The males were intoxicated, abusive and aggressive. They had been ejected from another licensed premise for urination and aggression. Kent Police officers attended and both males were arrested for being drunk and disorderly.

##### CAD 03-0264. (Sunday)

Call Type: Disturbance. On Sunday 3<sup>rd</sup> July 2016 at 03:38 hours a fight was reported outside the Cod Father. Kent Police officers attended however no offences were recorded.

CAD 23-0103. (Tuesday)

Call Type: Disturbance. On Tuesday 23<sup>rd</sup> August 2016 at 03:03 hours a member of staff from the Cod Father pressed a 'panic alarm' situated inside the premises. The alarm had been raised due to an abusive customer. The alarm company spoke to a member of staff at the Cod Father who informed them that the male in question had left the premises. No offences were recorded.

CAD 03-0199. (Saturday)

Call Type: Assault. On Saturday 3<sup>rd</sup> September 2016 at 03:38 hours a fight was reported inside the Cod Father. It was reported that 3 to 4 males were fighting. There was a further call from members of staff saying that they were still fighting, and that they were now outside of the Cod Father. The group causing the disturbance then left the area. This incident resulted in Kent Police recording a crime report for actual bodily harm. Members of staff had pressed the 'panic alarm' and Kent Police officer arrived on the scene. A female identified herself as a victim of crime. She told officers that she had stepped in between two fighting groups and had herself been struck in the face causing no visible injuries. Kent Police recorded two crimes reports of assault. The result being that one of the offender was identified the other was not. The male received a formal caution.

CAD 10-0243. (Saturday)

Call Type: Threats. On Saturday 10<sup>th</sup> September 2016 at 04:03 hours Kent Police was contacted by a member of the public. The male reported that whilst at the Cod Father another customer had threatened him. CCTV viewed the area and did not see a disturbance. Kent Police officers attended however no crimes were recorded.

CAD 01-0220. (Saturday)

Call Type: Disturbance. On Saturday 1<sup>st</sup> September 2016 at 03:59 hours an unknown person who wished to remain anonymous reported a fight outside the Cod Father; a disturbance could be heard in the background of the call. CCTV viewed the area and could not see anything of note. The same caller then again reported 8/9 persons fighting outside the Cod Father. Kent Police officers attended and found that the premises had closed and no one was in the street. No crimes were recorded.

CAD 19-0157. (Saturday)

Call type: Assault. On Saturday 19<sup>th</sup> November 2016 at 03:13 hours Kent Police were notified of an altercation between two females inside the Cod Father. The argument became heated and one of the females dragged the other out of the premises by her hair. Kent Police officers attended and spoke to both parties, neither party wanted to support a prosecution. Kent Police recorded a crime report for an assault; however the crime was not progressed due to the victim declining to support.

CAD 15-0163. (Saturday)

Call Type: Disturbance. On Saturday 15<sup>th</sup> April 2017 Kent Police were contacted by CCTV regarding a fight taking place at the Cod Father. A male was trying to start a fight with others inside which overflowed into the High Street, a male picked up a pole from nearby (not from premises) and chased others before leaving the area in a taxi. (Records do not confirm if this matter was progressed)

CAD 29-0152 (Monday)

Call Type: Disturbance. On Monday 29<sup>th</sup> May 2017 at 02:59 hours two females were reported to Kent Police due to causing a disturbance inside the Cod Father. Both were intoxicated, and were demanding a first aid kit as one of the females had stepped onto smashed glass in town. Both became aggressive. This matter did not result in any crimes being recorded.

CAD 27-1235 (Saturday)

Call Type: Fight. On Saturday 27<sup>th</sup> January 2017 at 22:03 hours a male who was a member of staff from the Cod Father contacted Kent Police alleged that he had been assaulted at the premises by several persons whom where connected to another premises. The offending group arrived by car, several punches were thrown. Kent Police recorded an assault crime report and a Public Order crime report. The victim, who claimed he was a member of staff from the Cod father, stated that he had been assaulted. Three offenders were interviewed and provided differing accounts. CCTV from Ashford Borough Council showed the victim punching out first, which conflicted against the original account. The matter was investigated but it did not proceed to court as the evidence obtained was inconclusive.

CAD 03-209 (Sunday)

Call Type: Disturbance. On Sunday 3<sup>rd</sup> June 2018 Kent Police were notified of a disturbance taking place outside of the Cod Father and a male was lying on the floor. Another call was received by members of SIA door staff from other licensed premises who were attempting to deal with this incident. Kent Police recorded two racially aggravated public order offences and an assault report. The victims refused to engage with Police therefore the investigation could not proceed. Kent Police cannot confirm if anyone involved in this incident was a customer of the Cod Father, or if the location was coincidental.

Crime report ZY/58343/18.

Crime description: Theft. This report related to a theft of wallet and mobile phone outside the Cod Father. The owner attended Ashford Police Station and stated that on Monday 1<sup>st</sup> October 2018 between 04:00 and 05:00 hours. The victim and a friend attended the Cod Father to purchase food. The victim stated that he believed his phone and wallet were stolen from him whilst outside of the Cod Father. The report was filed as there were no further lines of enquiry to be made. No enquiries were made with the staff from the Cod Father.

CAD 06-295/ 06-434

Call Type: Disturbance. A drunk female attended the Cod Father and caused a disturbance. Two calls were made to Kent Police. The first call was from a member of the public saying that a female was trying to fight with people and kick things. The female was angry with someone in the kebab shop. The second call was from a member of staff from the Cod Father at 0436 hours on the 6<sup>th</sup> October 2018. Caller states a female is swearing and punching people. The caller was trying to close the shop but the female is preventing him from doing so. She started a fight with two other customers and when the manager asked her to leave it seemed to make it worse and she started banging on doors. The female left the shop and carried on outside the venue before leaving. Kent Police recorded an attempt criminal damage crime report. The report was not progressed, staff from the Cod Father confirmed that the female had been lashing out, but no damage had been caused.

CAD 07-228

Call Type: Disturbance/Offensive Weapon. Ashford Borough Council CCTV notified Kent Police of an altercation which started near to the front of the Cod Father. This incident instigated Kent Police in trying to work with the license holder to increase public safety and to promote the 'Prevention of crime and disorder' objective. The nature of this incident which involved staff members using offensive weapons in public and the subsequent reluctance to either alter operating hours or employ security caused Kent Police to have significant concerns that the premise was failing to promote the prevention of crime and disorder and public safety objective. The incident which took place on the 7<sup>th</sup> October 2018 at 04:48 hours involved vehicles hitting each other, and fighting in the street. Kent Police Officers attended and arrested a member of staff from the Cod Father for being in possession of a baseball bat in public. Staff members are seen fighting with what looks like a broom handle and a cricket bat. Prior to that a male was seen leaving the Cod Father with what is believed to be a knife before returning with it. Police Officers arrived and attempted to speak to those at the scene. A male identified himself as the manager of the Cod Father. He admitted to bringing out a baseball bat from his vehicle. Kent Police recorded three crime reports comprising of an assault/affray and an offensive weapon. No persons at the scene provided further details as to who was involved. The manager of the Cod Father was cautioned for the offence of possessing an offensive weapon in public.

CAD 04-286

Call Type: Disturbance. Ashford Borough Council CCTV contacted Kent Police on Sunday 4<sup>th</sup> November 2018 at 04:51 hours. This was in relation to a disturbance taking place in the High Street Ashford outside of the Cod Father. The disturbance involved a male who is connected to and believed to be a member of staff from the Cod Father. The male was seen trying to start a fight with a female. Two other persons were trying to stop the disturbance. Police attended and the male was argumentative towards the attending Police Officer, but did leave the area and no offences were recorded.

CAD 14-1205

Call Type: Disturbance. An individual employed by the High Court contacted Kent Police on Wednesday 14<sup>th</sup> November 2018 at 16:24 hours. Whilst at the Cod Father, for a legitimate reason a disturbance was taking place which involved members of staff. Kent Police Officers attended and prevented a breach of the peace. No crimes were recorded.

CAD 14-1266

Call Type: Disturbance. On Wednesday 14<sup>th</sup> November 2018 at 16:59 hours a further call was made to Kent Police by an employee from the High Court. The caller described that a male within the Cod Father was becoming aggressive. This incident was related to the previous incident. Police attended to prevent a breach of the peace. No crimes were recorded.

CAD 17-0149

Call Type: Disturbance 'Assistance'. On Saturday 17<sup>th</sup> November 2018 at 02:14 hours A Police Officer was on patrol in the High Street, Ashford. The officer contacted the Kent Police control room requesting 'assistance' due to a fight taking place outside of the Cod Father. The two males who were fighting were separated. Neither wanted to provide any details to Kent Police therefore no crime reports were generated.

CAD 24-0225

Call Type: Disturbance. On Monday 24<sup>th</sup> December 2018 at 03:40 hours an intoxicated member of the public contacted Kent Police. He said that he was involved in an altercation at a different venue. The other party had followed him to the Cod Father and was waiting outside for him. Kent Police officers attended and ensured no offences took place.



The Cod Father 15 High Street, Ashford, Kent, TN24 8TH

7<sup>th</sup> October 2018 – Disturbance/Affray.

This image will be shown to all involved parties present during the hearing.

The above image is a screen capture of Ashford Borough Council CCTV taken on the 7<sup>th</sup> October 2018 at 04:51 hours. The male to the left of the screen is holding a long metallic object behind his back. The footage shows the unknown male observing the fight, he turns and enters the Cod Father 15 High Street, Ashford and after a few seconds returns to the High Street with the weapon hidden behind his back. Kent Police suggest that the item being carried in public is a kebab knife. Kent Police suggest that he is a member of staff from the premises, because he was seen at the premises at a time the licence holder states the premises were closed and only members of staff remained as they were cleaning. He had very easy access into the premises during the disturbance, and knew exactly where to find the weapon.



The Cod Father 15 High Street, Ashford, Kent, TN24 8TH

7th October 2018 – Disturbance/Affray.

This image will be shown to all involved parties present during the hearing.

The above image is a screen capture of Ashford Borough Council CCTV taken on the 7th October 2018 in Ashford High Street at 04:56 hours. The image shows the premises licence holder stood to the left of the screen. In front of him is a staff member from his premises who is holding a cricket bat. The male with the bat is seen striking out several times with the bat towards a male in the street.

This specifically was not report to Kent Police by the parties involved.



The Cod Father 15 High Street, Ashford, Kent, TN24 8TH

7th October 2018 – Disturbance/Affray.

This image will be shown to all involved parties present during the hearing.

This image will be shown to all involved parties present during the hearing.

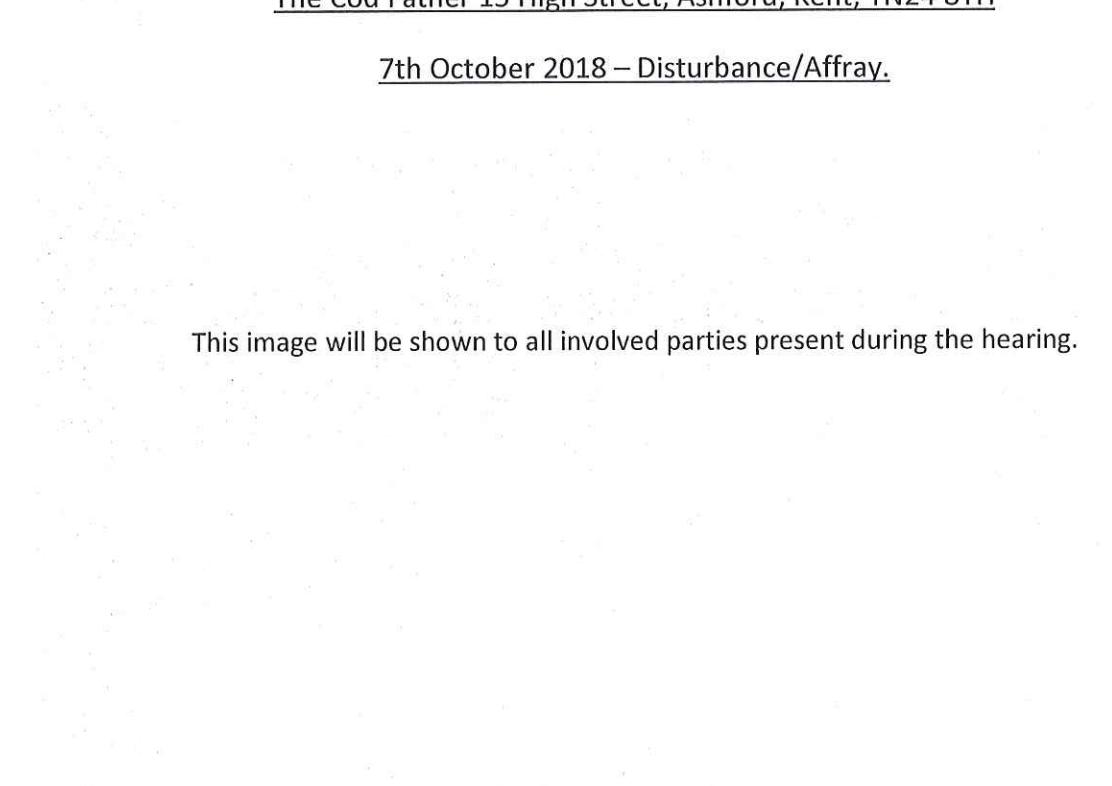
The above image is a screen capture of Ashford Borough Council CCTV taken on the 7th October 2018 in Ashford High Street at 04:56 hours. A male is seen exiting the Cod Father whilst holding a broom. The male is seen using the broom in a clubbing motion towards another male. When a Police vehicle attends the scene the male holding the broom is seen to run back into the Cod Father.



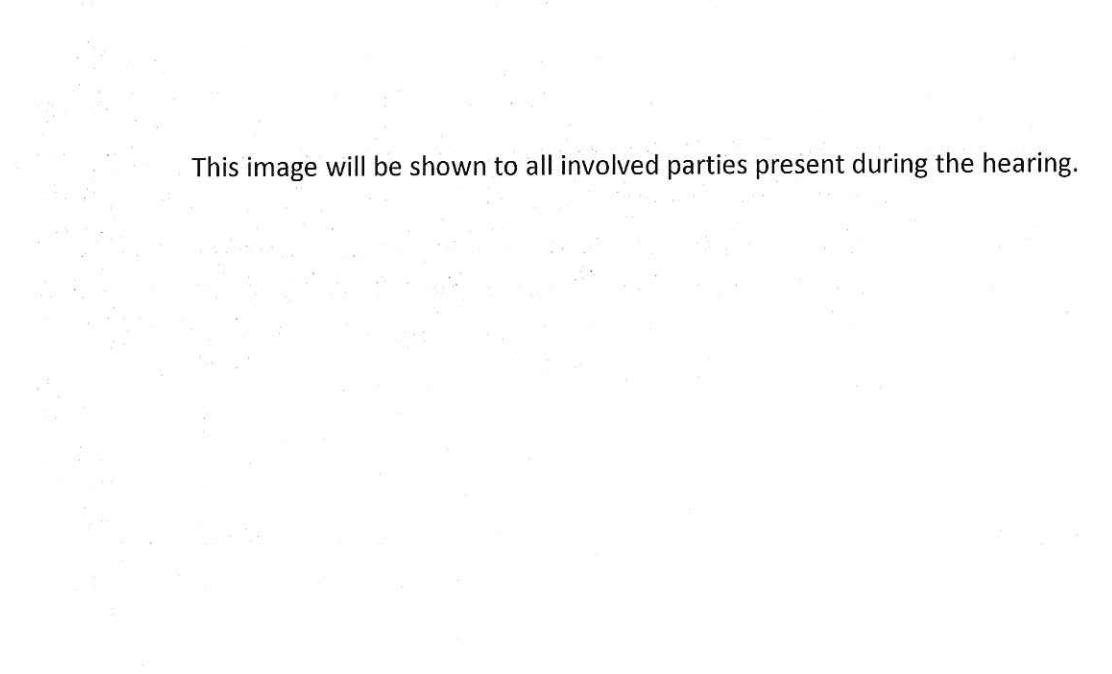
The Cod Father 15 High Street, Ashford, Kent, TN24 8TH

7th October 2018 – Disturbance/Affray.

This image will be shown to all involved parties present during the hearing.



This image will be shown to all involved parties present during the hearing.



The above image is a screen capture of Ashford Borough Council CCTV taken on the 7th October 2018 in Ashford High Street at 04:56 hours. The black vehicle was rammed from behind and knocked across the street. The male at the rear of the vehicle, is a member of staff from the Cod Father. It was later established that he was in fact the manager. The item he is holding is a baseball bat. After his vehicle was damaged he retrieved the weapon from the boot. A marked Police car arrives on the High Street and he is seen by officers in possession of the bat in public. He was subsequently arrested and after admitting the offence he was given a formal Police Caution. The baseball bat was recovered by Police.



## **Recommendations:**

Kent Police have serious concerns about the ability of the Premises Licence Holder to uphold and promote the licensing objectives. Furthermore, there is a concern based on the lack of recognition by the Premises Licence Holder that he has not upheld the objectives, despite efforts to communicate this to him, and that he would be unlikely to follow any unique conditions that may be imposed. It is therefore a strong recommendation of Kent Police that the Premises Licence be revoked.

Should it be decided not to revoke, Kent Police would ask that consideration be made to suspend the licence for a period of no less than 3 months. This would be sufficient time to allow the premises licence holder to fully train staff, and implement the conditions put forward to them during a meeting and later in writing.

Having reviewed the conditions originally proposed in the initial application Kent Police would like to adjust the conditions recommended in order to prevent duplication and to add clarity. Accordingly Kent Police would like propose the following amended conditions in line with our application:

### **To replace condition number 2 under the Prevention of Crime and Disorder objective on the current premises licence with:**

1. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting condition particularly facial recognition.
  - Cameras shall encompass all ingress and egress areas to the premises and all areas where the supply of late night refreshments occurs.
  - Equipment must be maintained in good working order, be correctly time and date stamped, recordings MUST be kept on the hard drive, kept for a minimum period of 28 days, and handed to Police or member of the Local Authority upon reasonable request.
  - The premises licence holder must ensure at all times an appointed member of staff is capable and competent at downloading CCTV footage in a recordable format to the Police and Local Authority upon reasonable request
  - Notices are to be placed and displayed within the public areas advising that CCTV is in operation for the purposes of crime reduction.

**Kent Police suggests that the above condition is implemented to ensure that CCTV footage is recorded and retained with a view to assisting with Police investigations relating to 'Crime and Disorder'. Having an operator trained in its use will promote its integrity; promote public safety and the prevention of crime and disorder.**

**To add the following conditions:**

2. The premises must employ two Security Industry Authority approved door supervisors every Friday and Saturday from midnight until close. These door supervisors are to be dedicated to the role of crime and disorder. Both members of door staff must wear reflective tabards that can be easily and clearly identifiable.

**Kent Police suggests that the above condition is essential to ensuring the premises are able to promote the 'Prevention of Crime and Disorder' and 'Public Safety' objectives.**

**The incident on Sunday 7<sup>th</sup> October 2018 at 04:48 hours at the Cod Father may not have developed to the extent of weapons being used in the street had effective controls been in place.**

**Implementing security at the Cod Father on Friday and Saturday nights provides appropriate and necessary cover to reduce the risk of crime and disorder taking place at the mostly likely times it would occur. The use of two SIA door staff will allow the premises licence holder to effectively reduce crime and disorder at his premises.**

**They will be present to reduce the likelihood of customers thinking that disorderly behaviour is acceptable. Should an intoxicated persons attempt to gain access to items which could be used as weapons then having two members of SIA security will increase their capability to restrain and eject anyone with this mind-set. The use of two members of door staff will allow them to monitor the inside and outside of the premises ensuring that incidents that may be seen as associated to the premises are controlled / minimised.**

3. The premises license holder shall ensure that an incident book will be maintained at the premises and will ensure any incident of 'crime and disorder' or 'antisocial' behaviour is recorded to include, time/date of incident, descriptions of those involved and their actions, and, any actions taken by members of staff. The person making the entry will record details of all members of staff on the premises at the time of the incident. The book will be made available to the Licensing Authority and Kent Police on request.

**Kent Police suggests that the above condition will promote the Prevention of Crime and Disorder and Public Safety licensing objectives by ensuring that details are recorded that will enable the effective investigation of crime and disorder**

4. All staff, paid or unpaid, will be provided with a half day course in 'conflict management' provided by a suitably competent and recognised trainer. A register including completion certificates will be kept at the premises and be made available to Police and Local Authority on demand.

**Kent Police would like to suggest that the above condition will promote the Prevention of Crime and Disorder objective. Had members of staff involved in the incident on the 7<sup>th</sup> October 2018 had even the most basic of training in 'conflict management', they would have at least known that their actions were escalating the situation and not diffusing or controlling it.**

5. Last orders taken at 04:30 (Licensable activity to cease at 04:30 hours to ensure that the premises can close at 05:00 hours as per the premises licence)

**Kent Police would like to suggest that a reduction of the hours the Cod Father is able to conduct late night refreshment. Reducing the hours from 05:00 hours to 04:30 hours is an appropriate and measured reduction to ensure persons are encouraged to purchase food after the close of nearby alcohol licensed premises, this will then allow 30 minutes for dispersal. Door staff could encourage the safe dispersal of patrons so that intoxicated persons are not left to congregate in the immediate vicinity of the premises which may reduce the likelihood of incidents taking place.**





ASHFORD  
BOROUGH COUNCIL

# Notice of Review of Premises Licence

## LICENSING ACT 2003

Take notice that **Chief Inspector 10040 Somerville on behalf of the Chief Officer of Police**, being a responsible authority within the meaning of the Licensing Act 2003, have made an application to **Ashford Borough Council**, the licensing authority for the borough of Ashford for the review of the premises licence for

**The Cod Father, 15 High Street, Ashford, Kent, TN24 8TH**

### **Grounds for review:**

The police are of the opinion that the premises does not comply with the licensing objectives of:

- The prevention of crime and disorder
- Public safety

Any person wishing to view details of this application can contact the licensing team on 01233 331111

**Any person wanting to make representations regarding the review should do so in writing sent to the Licensing department, Ashford Borough Council, Civic Centre, Tannery Lane, Ashford, Kent TN23 1PL [licensing@ashford.gov.uk](mailto:licensing@ashford.gov.uk) between the following dates:**

**26<sup>th</sup> November – 24<sup>th</sup> December 2018**

Notice to be displayed for 28 days from 26/11/18 – 25/12/18

It is an offence knowingly or recklessly to make a false statement in connection with an application. The maximum fine for which a person is liable on summary of conviction for the offence is £5000.

This page is intentionally left blank



## Ashford Police Community Safety Unit

Ashford Police Station, Tufton Street, Ashford, Kent TN23 1BT  
Telephone: 01233 896354

Date: 26<sup>th</sup> October 2018

Dear Mr Sahargul Ahmadzai,

### **Re: Codfather, 15 High St, Ashford TN24 8TH.**

Thank you for meeting with myself and Mr Julian Postlethwaite (Licensing Officer – Ashford Borough Council) on Tuesday 23<sup>rd</sup> October 2018 I am writing to you to clarify our discussions.

The purpose of the visit was to discuss an incident which took place on 7<sup>th</sup> October 2018 at 04:47 hours in the High Street, Ashford.

Kent Police were contacted regarding a disturbance taking place. Various persons were seen fighting with each other, and it was by all accounts a volatile situation which went on for some time.

The CCTV footage was shown to you during our meeting so that we could discuss what had taken place. I asked you “What lead to members of staff picking up weapons”. You informed me that you had closed at 04:00 hours and you were upstairs, your manager was downstairs cashing up. You told me that a fight took place by another premises, and your manager’s car was hit. You said that people had ‘knuckle dusters’. You said that they were your customers but they were drunk. You told them to go away from the shop.

You told me that your premises is normally closed at 04:00 hours, but that members of staff are inside cleaning the premises until 05:00 hours, customers were not allowed to use the upstairs areas, which were private.

I specifically highlighted the issue of a male seen with what I believe to be a kebab knife, a long bladed knife over a foot long. A male who walks towards the Codfather appears to re-emerge from the premises with a long knife held behind his back in public and walks towards the scuffling groups. Thank fully he is encouraged to return the knife to your premises without using it. You said that your staff would never come out with a knife into the public space, when I showed you the footage you denied that it was a knife, or that you knew who the male was. I find this hard to believe.

You accepted that the Codfather does use kebab knives and skewers but these are kept inside the premises. You explained that your premises serves fish/chips, kebabs and burgers and that you use the upstairs for accommodation and storage space.

You told me that your premise has a ‘panic alarm’ in the premises. I asked you why you had not pressed it during such an incident. You explained that the shop was closed, and the alarm does not work when the shop is ‘closed’. Various points that were caught on CCTV were discussed, including a staff member swinging what looked to be a cricket bat at a member of the public, and another staff member who appeared to be hitting out with a broom or mop handle at a member of the public. I accept that anyone would be annoyed about having their car damaged; but picking up a baseball bat (or any other weapon) for whatever reason goes well beyond self-defence, considering it had to be retrieved first. Kent Police will not tolerate anyone bringing weapons onto the streets – for whatever purpose. Your manager was arrested and cautioned for an offence of possession an offensive weapon in a public place.

You confirmed that the premises opening times were 11:30 until 0500 hours Friday and Saturday but that you closed early because of this fight.

Kent Police asked you to attend the Police Station so that this incident could be discussed and a plan put in place to tackle the concerns Police have that the Codfather was not promoting the Licensing Objective of ‘Prevention of Crime and Disorder’ and ‘Public Safety’. Kent Police asked for you to provide footage for the incident on the 7<sup>th</sup> October 2018. You brought a CCTV hard drive into the Police Station. However without any of the cables I would not be able to access the information, this is because if connected to an incorrect power supply it would damage/destroy the unit. I considered seizing the unit; however you informed me that you did not have a replacement for it. Therefore if I had seized it, it could have caused you to breach

conditions on your Premises Licence. The decision not to seize it was made when you said that it only recorded for 24 hours. You also informed me that you had not checked the equipment for two to three years which is a concern to me. It therefore seemed highly unlikely that it would have contained any footage from the 7<sup>th</sup> October 2018. Having said this – **I would recommend that you check the footage yourself, as of course this could go to support your version of events that no member of staff would have taken a knife into the public space. This can be shown by you in support of your claim.**

It was explained that Kent Police have concerns and that we wished you to accept conditions onto your licence which will assist you in the promotion of the Licensing Objectives. These were read out and each one discussed. The conditions were:

## **CONDITIONS:**

### **CCTV**

1. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting condition particularly facial recognition.
  - Cameras shall encompass all ingress and egress areas to the premises and all areas where the supply of late night refreshments occurs.
  - Equipment must be maintained in good working order, be correctly time and date stamped, recordings MUST be kept on the hard drive, kept for a minimum period of 28 days, and handed to Police or member of the Local Authority upon reasonable request.
  - The premises licence holder must ensure at all times an appointed member of staff is capable and competent at downloading CCTV footage in a recordable format to the Police and Local Authority upon reasonable request.
2. Notices are to be placed and displayed on the door and tills advising that CCTV is in operation.

### **SIA Door staff**

3. When the premises are open for trading after 23:59 hours, the premises licence holder will clearly identify a person who is accountable for the business. This person will be present in the premises until the business closes for trade

At all times if trading beyond 23:59 these premises must employ two Security Industry Authority door supervisors. These door supervisors are to be dedicated to the role and not just working on the premises. They are to remain on the premises until the premises are clear of all members of the public. All door supervisors must ensure their badges are being worn and displayed whilst working and wear reflective clothing that can be easily and clearly identifiable on CCTV.

Prominent clear and legible notices will be displayed at the exits asking customers to respect the needs of local residents and to leave the premises and area quietly.

An incident book is to be maintained at all times and any incident relating to crime and disorder reported to the Police immediately.

### **TRAINING**

4. All staff, paid or unpaid will be trained with regard to 'conflict management'. A register of completed training should be kept at the premises and be made available to Police and Local Authority on demand  
Refresher training will take place on an annual basis.

All staff will have individual training records that detail the date and nature of training.  
All records will be kept for a period of **Page 66**

## TIMINGS

5. Last orders taken at 04:30 (to ensure that the premises can close of 05:00 hours as per the premises licence)

During discussions you agreed that you would accept the CCTV condition and that you would replace the system, and improve it.

In respect of the door staff – you said that there were not problems, and that there wasn't any point as the fight took place outside not inside, and that you were not a pub.

In relation to the Training for staff, you said that you already do this, and that each member of staff has a certificate. Therefore, I believe this can easily be incorporated in these changes.

In respect of 'Timings' - Although this would appear to fit into what you currently do in terms of closing at 0400 hours and staff cleaning until 0500 hours. However you were not happy to change this, because it would affect your business in terms of being competitive with another nearby food outlet.

I asked you if you would reconsider the use of door staff at the Codfather, and you said that you would not. I informed you that I could not force you to take on these conditions however; I felt that they were necessary to promote the Licensing Objectives. I then informed you that the only option left open to me would be to apply for a review of your premises licence. The Council will then be able to view the footage/consider the options suggested by Kent Police and to assess what changes they wish to make in terms of promoting the objectives at your venue.

I strongly recommend that you approach the Council to vary your Premises Licence to include the above conditions. Should Ashford Borough Council not receive your application within ten working days of the date of this letter then I shall have to proceed with the 'Review Application'. This action would be to prevent crime and disorder and to promote public safety.

Yours Sincerely

PC 10699 Pringle  
Licensing Officer  
Community Safety Unit  
Ashford Police Station.

This page is intentionally left blank



## Premises Licence

Ashford Borough Council

Premises licence number: AS/LN/020080544

**Premises details:**

**Postal address of premises, or if none, ordnance survey map reference or description:**

Cod Father, 15 High Street, Ashford, Kent, TN24 8TH

**Telephone number:** 01233 634822

**Where the licence is time limited the dates:**

Not applicable

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

**Licensed area:** Indoors Only

**Licensable activities:** Late Night Refreshment

**Authorised hours:**

Sunday	23:00 - 05:00
Monday	23:00 - 05:00
Tuesday	23:00 - 05:00
Wednesday	23:00 - 05:00
Thursday	23:00 - 05:00
Friday	23:00 - 05:00
Saturday	23:00 - 05:00

**Non Standard Timings & Seasonal Variations:**

None

**The opening hours of the premises**

**Sunday** 12:00 - 05:00  
**Monday** 11:00 - 05:00  
**Tuesday** 11:00 - 05:00  
**Wednesday** 11:00 - 05:00  
**Thursday** 11:00 - 05:00  
**Friday** 11:00 - 05:00  
**Saturday** 11:00 - 05:00

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

**Not applicable**

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

**Name :** Mr Sahargul Ahmadzai  
**Address:** 15 High Street, Ashford, Kent. TN24 8TH  
**Tel number:** 01233 611599  
**Email:**

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

**Not applicable**

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

**Name & Address:** Not applicable  
**Tel number:** Not applicable

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

**Personal licence number:** Not applicable  
**Licensing authority:** Not applicable

**Licence issued by Julian Postlethwaite (Licensing Officer)**

**Signature:**

**Issue date:** 13 January 2017

## Mandatory conditions

### Door Supervisors

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:
  - (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
  - (b) be entitled to carry out that activity by virtue of section 4 of the Act.
2. But nothing in subsection (1) requires such a condition to be imposed:
  - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c12) (premises with premises licences authorising plays or films); or
  - (b) in respect of premises in relation to:
    - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
    - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section:
  - (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and, which is licensable conduct for the purposes of that Act, (see Section 3(2) of that Act) and
  - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

## Conditions consistent with the operating Schedule

### General - All Four Licensing Objectives

1. The Licence Holder will ensure provision of suitable and sufficient fire exits.

### Prevention Of Crime & Disorder

1. The Licence Holder will ensure whenever the premises is open to the public to be able to contact the police and ensure they are contacted in the event of crime or disorder in or around the premises.
2. The Licence Holder shall ensure that CCTV equipment is installed and working on the premises.

## **Public Safety**

1. The Licence Holder will ensure that the fire exits are kept clear at all times and that there is adequate external lighting in these areas.
2. The Licence Holder will ensure that adequate waste receptacles are available for use by customers inside and immediately outside the premises.
3. The Licence Holder will ensure the provision of appropriate fire detection / alarm system to cover both the ground and first floor and ensure that the systems are tested and re-certified annually.
4. The Licence Holder will ensure the provision of emergency lighting to the first floor rooms and staircase, with appropriate signage, and ensure that the system is tested and re-certified annually.
5. The Licence Holder will ensure that the door at the top of the staircase will open in the direction of travel, in case of an emergency exit.
6. The Licence Holder will ensure that the occupancy of the first floor is limited to 30 at any one time.

## **Prevention Of Public Nuisance**

1. The Licence Holder will ensure adequate signage is in place advising customers to leave the premises quietly and orderly and with due consideration for neighbours.

## **Protection Of Children From Harm**

1. The Licence Holder will ensure all children's meals are served in plastic containers and that children are provided with plastic cutlery.
2. The Licence Holder will ensure that children under the age of 16, are not served, after midnight, without an adult present.

## **Conditions attached after a hearing by the licensing authority**

NONE