



## LICENSING SUB COMMITTEE

Notice of a Meeting, to be held in the Committee Room No. 1 (Fougères Room) - Ashford Borough Council on Monday, 15th April, 2019 at 10.00 am.

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The Members of the Licensing Sub Committee are:-

Councillors Bradford, Farrell, Shorter  
Councillor Krause (Reserve)

### Agenda

**Page Nos..**

**1. Election of Chairman**

**2. Apologies/Substitutes**

To receive Notification of Substitutes in accordance with Procedure Rule 1.2(iii)

**3. Declarations of Interest**

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

**4. Minutes**

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To approve the Minutes of the Meeting of this Sub-Committee held on 15<sup>th</sup> March 2019.

**5. Exclusion of the Public**

To consider passing the following resolution to exclude the public:-

That pursuant to Section 100A(4) of the Local Government Act 1972 as amended the public be excluded from the meeting during consideration of the following item as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present there would be disclosure of exempt information hereinafter specified by reference to paragraphs 1 and 2 of Schedule 12A of the Act, where in the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information

KM  
2 April 19

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Queries concerning this agenda? Please contact Kirsty Morland Tel: 01233 330499  
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## 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.

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## Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in Committee Room 2, Civic Centre, Tannery Lane, Ashford on the **15<sup>th</sup> March 2019**.

### **Present:**

Cllr. Farrell (Chairman);

Cllrs. Feacey, Krause.

### **Also Present:**

Ms Fenwick – Applicant.

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

## **380 Election of Chairman**

### **Resolved:**

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

## **381 Minutes**

### **Resolved:**

**That the Minutes of the Meeting of this Sub-Committee held on the 24<sup>th</sup> January 2019 be approved and confirmed as a correct record subject to the following amendments to Minute No: 310;**

In response to a question, PC Pringle said that no officers had been informed about a knuckleduster at the time of the incident . It was first raised during his meeting with the Licence Holder.

PC Pringle advised that the premises licence allowed the premises to open until 5.00am. This incident happened at approximately 4.50am. The Sub-Committee questioned whether an earlier closing time would prevent this type of incident. PC Pringle responded that businesses operating at this time tended to draw intoxicated people. The remedy was either to employ door staff or reduce the opening times. The Sub-Committee questioned whether the requirement for 2 door staff was draconian but PC Pringle considered that 2 security staff would mean that premises staff did not need to take action in the event of disturbance.

In response to a question about the in-house CCTV, PC Pringle said that the Licence Holder had visited the police station and brought the hard drive from

the CCTV system. However, he had not brought the necessary cables, so it was not possible to view the footage immediately. It was late on Friday afternoon and PC Pringle did not believe at that stage that any footage would incriminate staff, and there was no back up unit at the site. PC Pringle considered all aspects and therefore did not pursue the matter immediately. The CCTV system was thought to record only for 24 hours, so by Monday it was thought no longer possible to obtain footage from the night of the incident. PC Pringle said that in retrospect he believed footage from the premises would have helped identify who came and went.

## **382 Premises License for The Outhouse,**

Prior to the commencement of the meeting all parties were handed and read an email from Mr Gibson, that was additional to his other written representations.

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. The application was for a premises licence situated on a small-scale vineyard on a farm. The owners anticipated that they would sell in the region of one thousand bottles of wine, but in the future, they expected that annual sales will be around 3000 bottles. The majority of these sales would be ordered via the company website and dispatched via courier. The application for the premises licence, along with a plan of the internal layout of the premises were appended to the report at Appendices A and B respectively. One representation had been made which was detailed in full at Appendix F. An email had been received from a resident in the village supporting the application. Drawing attention to the representation from Mr Gibson, the Licensing Officer advised that concern had been raised regarding Sunday operating hours, as in Mr Gibson's view Sunday should be special and therefore opening hours should be restricted. Furthermore, Mr Gibson was of the opinion that those offering support to the application would not actually be affected by the application. He had also drawn attention to an unrelated planning application in the vicinity and lastly issues regarding on street parking. The Licensing Officer concluded by outlining the decision options available to the Sub-Committee.

The Legal Advisor requested clarification on the conditions in Appendix E and how these had been formulated from the operating schedule. The Licensing Officer advised that when operating schedules were received that could not be clearly transferred into conditions it was standard practice for the Licensing Team to contact the applicant to formulate conditions to support the operating schedule. Ms Fenwick confirmed that this had occurred.

Ms Fenwick, the applicant, expanded on her application and assured the Sub Committee that the volume of visitors had been assessed with parking available on site. It was unlikely that there would be visitors to the premises in the evening and certainly not the level that would create a public nuisance. She drew attention to the

photographs she had submitted which highlighted the on street parking situation at the premises before, during and after the Sunday church service.

During the course of the meeting references had been made regarding a recent application for a viticulture centre, the Legal Advisor clarified that the planning law and licensing law were separate matters and therefore the planning application should not be part of the consideration of this meeting.

In response to questions from the Sub Committee, Ms Fenwick advised that signage would be in place directing patrons to parking in the Courtyard rather than on street, additionally information would be placed on their website advising of the same. In respect of times of couriers attending the site, she advised that it was likely that due to the small size of the operation the courier would provide an hours slot, it was usual that the operation hours would be 8am to 8pm for couriers.

The Committee retired to deliberate and make their decision. On returning, the Legal Adviser read the Reasoning Statement.

### **Resolved**

**That the application, as applied for, be granted, with the additional condition pertaining to signage as follows:**

**Signage as indicated and illustrated on page 6 of the additional papers to be produced in the following order:**

**Brabourne Vineyard  
Please Park In Courtyard**



**Court Lodge  
Fig Cottage  
Court Lodge Farm**

**To be installed within 30 days of the date of the grant of the licence.**

The decision notice and formal wording read out by the Legal Advisor is appended to these minutes. A copy of the decision was given to the applicant at the conclusion of the meeting.

**LICENSING SUB-COMMITTEE  
FRIDAY 15<sup>th</sup> MARCH 2019**

**APPLICATION FOR A PREMISES LICENCE FOR THE outhouse (COURT LODGE, THE STREET, EAST BRABOURNE, KENT, TN25 5LR) UNDER THE PROVISIONS OF SECTION 35(5) OF THE LICENSING ACT 2003.**

**LICENSING SUB-COMMITTEE DECISION AND REASONINGS**

**LICENSING OFFICERS**

Julian Posthlewate  
Trevor Ford

**REASON FOR MEETING:**

An application was made for a premises license for The Outhouse, East Brabourne, following the consultation period a representation had been made leading to this Hearing.

**DELIBERATION:**

The Licensing Sub Committee listened to the introduction given by the Licensing Officer in respect of the application made, drawing attention to the representation made and the further information provided by both the applicant and the objector.

The Sub Committee heard from the applicant, Ms Fenwick, who expanded on the application submitted and highlighted the availability of parking on the site. Further to questioning from the Sub Committee, Ms Fenwick advised that signage would be in place to direct customers to parking at The Courtyard, and this would also be highlighted on their website.

References had been made in the submissions regarding the recent application for a viticulture centre, the Legal Advisor clarified that the planning law and licensing law were separate matters and therefore the planning application should not be part of the consideration of this meeting.

During the deliberations on the matter, the Sub Committee noted in the representation from Mr Gibson the suggestion that the hours applied for should be reduced to what he believed to be a more acceptable timeframe. The Sub Committee considered this time frame, however could not find evidence submitted to support departing from the application as applied for. Rather, the assumptions of public nuisance were exactly that, assumptions of what might happen.

Whilst the Sub Committee are mindful that street parking is a highways issue, nevertheless they considered that there was sufficient distance between the applicants premise and the premise

of the objector for the matters raised in respect of parking in the representation.

The Sub Committee felt that the supplementary papers supplied by Mr Gibson, expanded on his concerns regarding parking in vicinity, and provided the necessary clarity that they need in respect of the parking issues raised by Mr Gibson.

Further to the deliberations the Sub Committee considered whether signage would mitigate perceived problems of on street parking in the area. The Sub Committee were mindful that Page 6 of the additional papers, Appendix 3 – Proposed Signage for Courtyard Parking and the indication from the applicant of the content of the sign. When reviewing the content of the sign the Sub Committee believed it would be prudent for the business address Brabourne Vineyard to head the sign and then the term 'Please Park in Courtyard' to swiftly follow therefore alerting clearly to visitors where they should park their cars should they be visiting the premises. In light of this the Legal Advisor approached the applicant to indicate whether an agreed condition could be reached in terms of signage. The agreed condition is as follows:

Signage as indicated and illustrated on page 6 of the additional papers to be produced in the following order:

Brabourne Vineyard  
Please Park In Courtyard  
←  
Court Lodge  
Fig Cottage  
Court Lodge Farm

To be installed within 30 days of the date of the grant of the licence.

Further, the Sub Committee wished to remind the applicant of the desire for good neighbourly relations, and ensuring a positive dialogue with neighbours. The Sub Committee considered that there was a mechanism for a review of the premises licence should evidence come to light of breaches of the conditions or the undermining of the licensing objectives. Should Mr Gibson or any other party find that his presumptions are coming to fruition then he could bring that evidence to the Licensing Department and the Sub Committee for potential review. However, the first port of call for issues should be with the applicant and therefore the applicant is encouraged to provide her contact details to neighbours and neighbours are encouraged to discuss any concerns directly with the applicant before taking this route.

**DECISION MADE:**

That the application, as applied for, be granted, with the additional condition pertaining to signage as follows:

Signage as indicated and illustrated on page 6 of the additional papers to be produced in the following order:

Brabourne Vineyard  
Please Park In Courtyard



Court Lodge  
Fig Cottage  
Court Lodge Farm

To be installed within 30 days of the date of the grant of the licence.

**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> March 2019

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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