

Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **21st June 2022**.

Present:

Cllr. Michael (Chairman);

Cllrs. L Suddards, Wright

Also Present:

Mr Lomas, B & K Leisure Ltd - Applicant

Mrs Lomas, B & K Leisure Ltd

Mr Heritage – Objector

Licensing Officer (JP), Licensing Officer (AS), Principal Litigator, Member Services Officer.

54 Election of Chairman

Resolved:

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

55 Boys Hall, Boys Hall Road, Ashford, Kent TN24 0LA – Application for a Premises Licence

The Chairman opened the meeting and welcomed all those present. Everyone introduced themselves and confirmed that they had received and read the papers relating to the application. The Chairman explained the procedure to be followed at the meeting.

The Licensing Officer (AS) introduced the application, drawing attention to the fact this was a new application for a Jacobean building set in 3 acres of land, where a current licence existed. She explained that the Applicant had chosen to make a new application rather than request a variation of the existing licence. The application set out to extend the area where the sale of alcohol, dancing, live music, recorded music, and making music could take place, and to amend the licensing hours. Plans and an operating schedule had been submitted. A 28 day consultation had taken place, with three representations received from local residents. She asked the Committee to consider the proximity of residential properties.

The licensing hours were requested as follows:

Supply of alcohol (Off and on sales)	Sunday – Wednesday (inclusive) 07:30 -23:30 Thursday – Saturday (inclusive) 07:30 – 00:00
Hours premises open to the public*	Sunday – Wednesday (inclusive) 06:30 – 22:30 Thursday – Saturday (inclusive) 07:30 – 00:30
Late night refreshment (Indoors only)	Sunday to Wednesday (inclusive) 23:00 – 23:30 Thursday –Saturday (inclusive) 23:00 -00:00
Live music/Recorded music/Performance of dance/Anything of similar description (Indoors only)	Sunday to Wednesday (inclusive) 08:00 – 23:30 Thursday to Saturday (inclusive) 08:00 – 00:00
*Seasonal variations	All Bank holidays and New Years Eve- From the end of permitted hours until 01:30 the next day. The premises shall be open to hotel guests 24 hours.

The Licensing Officer (AS) stated there were three possible decisions for the Committee to consider:

- a) Grant the licence variation subject to
 - i) Such conditions as are consistent with the operating schedule accompanying the application modified to such an extent as the authority considers necessary for the promotion of the four licensing objectives, and
 - ii) any conditions which must under section 19, 20, or 21 of the Licensing Act 2003 be included in the licence (the mandatory conditions).
- b) Exclude, or limit, the scope of any of the licensable activities to which the application relates.
- c) Reject the application.

The Applicant, Mr Lomas, was asked to make a statement. He emphasised this was a new venture for himself and his business partners, to create a quality restaurant with a boutique hotel, able to accommodate small events, conferences and business meetings, rather than a party venue. He and his partners had considerable successful experience in the hospitality industry. The location was in a prime

position for Ashford and in Kent, and the character building had received significant investment in the last few months towards their ambition. The main reason for the application was to extend the current licence provision, to allow them to offer an alcoholic drink at breakfast-time, such as English fizz or a Bloody Mary, enhancing the customer experience. It was not envisaged that their target market would cause any disturbance to local residents, by anti-social or raucous behaviour, or by cars entering or leaving, as timings would naturally be staggered. The intention was to support local businesses by seeking out and engaging with local suppliers, for food, drinks and consumables across the premises. With regard to the objections received, he commented that the boundary was some way away from the building, and tree-lined, reducing the risk of disturbance to the local residents in Millstream Green. The music intended would mostly be background music, such as a string quartet at Sunday lunchtime, intended to enhance the ambience. It would be only be broadcast from indoors. No complaints had been received from local residents regarding noise disturbance during renovation works, even though the builders had had radios at quite high volumes. He had actively engaged with some of the local residents, by direct communication and shared email addresses, telephone numbers and text messages. He and his partners had a strong commitment to the four Licensing objectives as stated; it was confirmed all present had read these. He was living on site with his young family so understood the local concerns that had been expressed and wished to actively work with neighbours to create a harmonious relationship.

The Chairman asked if the Objector, Mr Heritage, wished to comment. Mr Heritage confirmed that he and other residents had strong concerns that the granting of the new licence would open up the possibility of anti-social behaviour caused by the consumption of alcohol, resulting in inappropriate language being overheard, together with disturbed evenings and sleep deprivation for himself, his neighbours and their children. The gated entrance was close to dwellings and residents were already impacted by anti-social behaviour on the adjacent footpath. The access road was narrow and twisty, and several traffic accidents had already occurred. It was likely the business would result in increased footfall and noise nuisance from poor behaviour and loud music. The signposting of Notices had not been widespread and the Applicant had not made any direct attempt to contact all local residents regarding the venture.

The Licensing Officer (JP) confirmed notices had been sited on the footpath, the second gate and the rear gate to the premises, and the Applicants had posted a Notice in the local newspaper; these measures meant the application was compliant with the Licensing Act 2003.

Mr Lomas responded to concerns by reiterating his intention to actively engage with local residents, confirming his willingness to provide access to on-site management by telephone or possibly a WhatsApp group, so that staff could immediately respond to any perceived nuisance. Signs would be posted in the car park and at all exits, requesting guests be aware of the proximity of residential property and mindful to limit any noise nuisance. The disposal of bottles into external bins would be restricted to daytime hours; this would mitigate site noise. He confirmed the opening of the premises would be phased.

In response to a Member's concerns regarding road safety, it was agreed this was the responsibility of Kent Highways to manage, and not pertinent to the granting of any licence.

The Principal Litigator and Licensing Officers drew Mr Heritage's attention to the revised Licensing hours and advised that they were an overall reduction to the current licence's evening hours. The addition was the morning hours, which centered on the provision of breakfast.

It was agreed the recent renovation works noise and increased site traffic were not relevant to Mr Heritage's concerns.

In response to other questions, Mr Lomas stated that the treatment rooms would not be open in the morning and their use would be limited to hotel guests only. The accommodation cabins were additional hotel rooms. Those neighbours closest to these had been actively consulted and were happy with the arrangements. It was not anticipated that there would be in excess of 100 visitors at any point in time on the premises. There were parking places for 39 cars, three electric charging points and bicycle parking. The intention was for a phased opening from the end of August/beginning of September 2022, with an ambition to open the garden rooms in years two or three. He reiterated he had taken on board the objections but this was a different business with a different model to that of the previous owners, and wanted to actively mitigate the concerns or manage any incidents if they arose.

The Licensing Officer (JP) stated the response to any issues would be for local residents to inform the police and/or the Environmental Protection team to deal with at point of occurrence, if satisfaction from the Applicant could not be achieved.

The Principal Litigator reiterated there was an existing licence, and if the Applicants were unsuccessful in their new application, the conditions of operation of that licence would still exist. She suggested the Applicant and the Objector negotiate to firm up the Operating Schedule conditions to everyone's agreement whilst the Sub-Committee deliberated, and those conditions could be applied if the new licence were to be granted. This opportunity was welcomed by both parties.

The Sub-Committee retired to deliberate and make their decision.

During deliberations, an amendment to the application was provided to the Sub-Committee, as follows:

Prevention of public nuisance

- Alcohol served before 1100 is ancillary to table service.
- The Licence Holder will ensure that the placing of bottles into receptacles outside the premises is only permitted outside the hours 2200 – 0730.
- The Licence Holder and appropriate staff will regularly monitor noise levels outside the premises to ensure they are not excessive or likely to disturb neighbours.
- The Licence holder shall ensure that any complaints will be logged in the incident book (detailing the date, time, person, person recording the complaint, complaint) and any action/advice given. The complaint will be addressed as soon as reasonably practicable.

- Where possible a direct line of communication will be given to local residents as applicable in respect of the premises licence and licensing conditions. This will be updated and maintained as necessary.

On returning, the Chairman read the Decision and Reasoning Statement. All Members wished the Applicant well in his new business endeavour.

Resolved

The Premises Licence be granted as applied for.

The decision notice and formal wording read out by the Chairman is appended to these minutes. A copy of the decision was given to the Applicant at the conclusion of the meeting, and to the Objector.

Queries concerning these Minutes? Please contact Member Services:
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**LICENSING SUB-COMMITTEE
TUESDAY 21st JUNE 2022**

**APPLICATION FOR A PREMISES LICENCE FOR
BOYS HALL, BOYS HALL ROAD, ASHFORD**

LICENSING SUB-COMMITTEE DECISION AND REASONINGS

LICENSING OFFICER

Alison Simmonds

**REASON FOR
MEETING:**

An application was made for a Premises Licence for Boys Hall, Boys Hall Road, Ashford, Kent TN24 0LA.

DELIBERATION:

The Licensing Sub-Committee listened to the introduction given by the Licensing Officer in respect of the application made for a premises licence.

The Licensing Officer drew attention to the fact this was a new application from a Jacobean building set in 3 acres of land, where a current licence exists. The application sets out to extend the area where the sale of alcohol, dancing, live music, recorded music, making music can take place, and to amend the Licensing hours. Plans and an operating schedule had been submitted. A 28 day consultation had taken place, with three representations received from local residents.

The Sub-Committee heard from the Applicant, who outlined the intention to create a restaurant with a boutique hotel, as a small events and conference venue. The request for increased hours was intended to provide the facility of alcohol with breakfast, with the addition of gentle background music. It was not anticipated that rowdy behaviour from customers was likely, and entrance and exit of cars would be at staggered intervals. The Applicant had invested significantly in the venue, and the intention was to support local businesses by seeking local suppliers. Music would be for ambience purposes in the main. A dialogue had been established with some local residents and concerns had been mitigated. They had shown their commitment to four Licensing objectives and it was confirmed these had been read by all.

In response to questions from the Sub-Committee, the Applicant advised that he was in direct correspondence with some residents

by email, text and telephone, but would consider other forms of communication such as a WhatsApp group. He indicated that he very much wanted to work with local residents to ensure that all parties could live and work alongside each other, informing the Sub-Committee they were young working parents themselves, with young children living on site. It was confirmed music would be indoors. He ran through the application in general and his ideas of how the business would run, emphasising the intention was for a different quality of venue than was previously operated there, with a completely different business model. He outlined his previous extensive experience in the hospitality industry, and his ability to operate such a business without nuisance, amplifying what was detailed in his operating schedule.

The Sub-Committee heard from Mr Heritage, who had submitted his concerns previously. His first concern was whether the application had been legally advertised, and it was confirmed by the Licensing Officer that it had and it was a valid application properly served and advertised. Following on from this, his main objections were centred around his concerns of what he perceived to be an all-day drinking establishment, so close to residential properties.

He had not been involved in direct communication with the applicant before today, and had not appreciated before today, that the proposed Licensing hours were; a significant reduction in the evening and that the main change was the introduction of morning hours of licensable activities between 7.30 am and 11.30am. It was explained that this was to allow a glass of English fizz or such like with breakfast. It was not anticipated that there would be in excess of 100 visitors at any point in time on the premises.

Further to Mr Heritage expressing concerns of not having been able to fully appreciate the conditions of the application, and the measures within the operating schedule that might alleviate his concerns, time was given for the applicant and Mr Heritage to run through the schedule and add greater detail where thought necessary to help alleviate concerns and show willingness to work together. The amended operating schedule would then be presented to the Sub-Committee to add to the application being considered.

The Sub-Committee then retired.

The Sub-Committee considered the following licensing objectives; prevention of Crime and Disorder, Public Safety, the Prevention of Public Nuisance and the Prevention of Harm to Children and looked to the operating schedule as to how they were being addressed as a whole.

During deliberations the Sub-Committee gave significant consideration to all the representations received, noting that the representations received centred around noise nuisance. The Sub - Committee were mindful that the evening hours of the application before them were significantly reduced. This would go some way to reducing any likelihood of noise nuisance at a later hour. The Sub-Committee were mindful that if a new licence was not granted, then Boys Hall can operate much later with their current licence, up to an hour and a half each day under their current licence.

The major change to the hours was the additional 7.30am to 11.30am for all licensable activities. This was new, there is no evidence presented to them that noise disturbance will occur at this hour from the licensable activities.

It was further noted that objection to the non-standard timings had been made, however these remain unchanged from the current premises licence, although the representation is presented as an increase.

The Sub-Committee considered that the new application presents residents with the reality of a reduction in the late-night hours which could only be a benefit to the younger residents. They further considered that the likelihood of younger residents being asleep until 11.30am is minimal; most people would be rising earlier to begin daily activities.

During deliberations, an amendment to the application was provided to the Sub-Committee

Prevention of public nuisance

- Alcohol served before 1100 is ancillary to table service.
- The Licence Holder will ensure that the placing of bottles into receptacles outside the premises is only permitted outside the hours 2200 – 0730.
- The Licence Holder and appropriate staff will regularly monitor noise levels outside the premises to ensure they are not excessive or likely to disturb neighbours.
- The Licence holder shall ensure that any complaints will be logged in the incident book (detailing the date, time, person, person recording the complaint, complaint) and any action/advice given. The complaint will be addressed as soon as reasonably practicable.
- Where possible a direct line of communication will be given to local residents as applicable in respect of the premises licence and licensing conditions. This will be updated and maintained as necessary.

In making their decision, the Sub-Committee gave due consideration to all of the Licensing Objectives. It was felt that the

Applicant has sat down with the objectors and between them have come up with a solution to the concerns raised, which says a lot for both parties and bodes well for the future that residents and the Applicant will work in partnership successfully. Clarity of intentions and commitment were now apparent within the operating schedule.

The Sub-Committee were mindful that the above amendments become legally enforceable and present a real identifiable method of management that gives assurance to residents.

DECISION MADE:

The licence be ...

Granted as applied for.

Additional notes made by the Sub-Committee to those present at the hearing:

- Interested Parties and Responsible Authorities were reminded that they may apply for a review of this Premises Certificate “after a reasonable interval” pursuant to section 51 of the Licensing Act 2003.
- Entitlements to appeal for parties aggrieved by the decision of the Licensing Authority are set out in Schedule 5 to the 2003 Act.
- An appeal had to be commenced by the giving of a notice of appeal by the appellant to the Designated Officer for the Magistrates’ Court within the period of 21 days beginning on the day on which the appellant was notified by the Licensing Authority of the decision to be appealed against.
- An appeal must be made to a Magistrates Court.

Right of Appeal

- 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: 21st June 2022