

**LICENSING OF ALCOHOL AND GAMBLING
SUB-COMMITTEE**

WEDNESDAY 28 MARCH 2012 AT 14.30 PM

COUNCIL CHAMBER, CIVIC CENTRE, HEMEL HEMPSTEAD

The Councillors listed below are requested to attend the above meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Councillors Lawson (Chairman), Hearn and Taylor

For further information, please contact Pauline Bowles, Members Support Officer on Tel: 01442 228221, or Email: Pauline.bowles@dacorum.gov.uk Information about the Council can be found on our website: www.dacorum.gov.uk

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1. INTRODUCTIONS

2. MINUTES

To confirm the minutes of the meeting held on 26 January 2012.

3. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

4. DECLARATIONS OF INTEREST

To receive any declarations of interest.

5. LICENCE HEARING

LICENSING ACT 2003.

BERKHAMSTED SPORTS AND SOCIAL CLUB, KITCHENERS FIELD, CASTLE HILL, BERKHAMSTED, HERTFORDSHIRE HP4 1HE

(Contact: Sally Taylor, Regulatory Services)

PURPOSE OF REPORT

To consider an application for grant of a premises licence.

Applicant : Berkhamsted Sports (Cricket) Club

Premises: Berkhamsted Sports and Social Club, Kitcheners Field, Castle Hill, Berkhamsted, Hertfordshire HP4 1HE

The application

The application is for grant of a new premises licence under Section 17 of the Licensing Act 2003.

The application is produced at Annex 'A'.

A plan of the premises and map of the area is produced at Annexes 'B'1' to 'B'3'

Details of the application

Hours Premises open to the public

Day	Proposed hours
Monday	11:00 – 23:30
Tuesday	11:00 – 23:30
Wednesday	11:00 – 00:00
Thursday	11:00 – 00:30
Friday	11:00 – 01:00
Saturday	11:00 – 01:30
Sunday	11:00 – 23:30

Non standard timings:

Either:

Christmas Eve; or
New Year's Eve (30th December);
or New Year's Eve :

Up to 01:30 hours

(Only one of the above will occur in any one year)

Supply of Alcohol

For consumption on the premises.

Day	Proposed Hours
Monday	11:00 – 23:00
Tuesday	11:00 – 23:00
Wednesday	11:00 – 23:30
Thursday	11:00 – 23:30
Friday	11:00 – 00:30
Saturday	11:00 – 01:00
Sunday	11:00 – 23:00

One Sunday in June each year for sale of alcohol at opera/jazz/classical event until 22:00 hours.

One Saturday in September each year for sale of alcohol at music event until 22:00 hours.

One Saturday evening in November each year for sale of alcohol at fireworks event until 21:00 hours.

Non standard timings:

Christmas Eve, New Year's Eve Eve (30th December) and New Year's Eve, and Bank Holidays : up to 01:00 hours.

Live Music

Both indoors and outdoors

Day	Proposed hours
Thursday	19:00 – 23:00
Friday	10:00 – 12:00 and 19:00 – 00:30
Saturday	19:00 – 01:00
Sunday	15:00 – 21:30

A singing society meet for an hour most Friday mornings (Group of approximately 17-20 persons) – music is unamplified.

One Sunday in June for outdoor Opera/Jazz/Classical music event starting early afternoon and ending at 21:00 hours.

One Saturday in September for outdoor music festival starting at 12:00 hours and ending at 21:00 hours.

Non standard timings:

Either

Christmas Eve; or
New Year's Eve Eve (30th December); or
New Year's Eve
(Note: one event only)

Recorded Music

Both indoors and outdoors

Day	Existing hours
Thursday	19:00 – 00:00
Friday	19:00 – 00:30
Saturday	19:00 – 01:00
Sunday	19:00 – 23:00

Recorded music may take place in a temporary marquee sited on the decking and linked to the club house for a maximum of four occasions per annum. The marquee will be removed after each event.

Non standard timings:

Either:

Christmas Eve; or
New Year's Eve Eve (30th December); or
New Year's Eve

Until 01:00 hours

(Only one of the above will occur in any one year)

Provision of facilities for dancing

Indoors only

Day	Existing hours
Thursday	19:00 – 00:00
Friday	19:00 – 00:30
Saturday	19:00 – 01:00
Sunday	19:00 – 23:00

Non standard timings:

Either

Christmas Eve; or
New Year's Eve Eve (30th December); or
New Year's Eve

Until 01:00 hours

Steps to promote the licensing objectives

General

The Club activities and events programme is overseen by a club management committee.

The Bar Supervisor will have a personal licence.

All bar staff will be trained to the satisfaction of the Supervisor.

The Prevention of Crime and Disorder

All three events will be heavily marshaled.

No persons under the age of 18 will be sold alcohol.

All drinks will be sold in plastic glasses.

All major events will be ticketed.

Public Safety

A full risk assessment and evacuation plan has been prepared for all three events.

The Club will liaise with Environmental Health, Police, Fire and Ambulance Service prior to event taking place.

The Prevention of Public Nuisance

The playing field will only be used for licensable activities on three occasions per year.

A flyer will be sent to local residents at least 2 weeks beforehand informing them of an event.

A site visit will be organized with the Environmental Health Inspector prior to an event to minimise potential noise disturbance.

All events to end by 21:00 hours to avoid late night disturbance to local residents.

Controlled entry (Ticket sales only)

The Protection of Children from Harm

All bar staff trained to deal with under age drinking.

ID's will be requested.

RELEVANT REPRESENTATIONS

Responsible authorities:

Police –

Annex C'1'- No relevant representations

Environmental Health Officer –

Annex C'2' No relevant representations

Planning Officer –

Annex C'3' no relevant representations.

Health and Safety –
Annex C'4' no relevant representations.

Interested Parties:

The licensing authority has received one letter of representation from an interested parties living on nearby Castle Hill. The letter is produced at Annex D, and refers to possible noise nuisance and disturbance from music, and individuals attending the premises.

LOCAL POLICY CONSIDERATIONS

It is considered that the following policies have a bearing upon the application:

The Council has a duty under the Act to carry out its functions with a view to promoting the 4 licensing objectives, as follows: -

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm.

1.4 The Council as the Licensing Authority has discretion whether to grant applications for licences and to impose conditions on the granting or review of licences only when representations relevant to the licensing objectives are made by 'Interested Parties' (to include a person living or involved in a business in the vicinity of the premises, a body representing those persons, or a member of the relevant licensing authority i.e. an elected councillor for that area), or by 'Responsible Authorities' (public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence). When no relevant representations are received, the Licensing Authority is required to grant a licence subject to conditions consistent with the operating schedule and mandatory conditions under the 2003 Act.

1.5 Nothing in this Statement of Licensing Policy prevents applications being considered on their own merits, nor will it undermine the right of any person applying for a variety of permissions under the Act.

1.7 In addressing these matters the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

3.2 In carrying out its licensing functions, the Licensing Authority must also have regard to its policy statement, and any statutory guidance under the Act, it is also bound by the Human Rights Act 1998. The Licensing Authority must also fulfill its obligations under section 17 of the Crime and Disorder Act 1998 as follows: "Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area".

3.3 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a means for solving all local problems. The Licensing Authority will therefore continue to work in

partnership with its neighbouring authorities, the police, local businesses and local people towards the promotion of the licensing objectives as outlined.

3.4 The Licensing Authority expects applicants to address the licensing objectives in their operating schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of local communities. The operating schedule should contain sufficient information to enable any Responsible Authority or Interested Party to assess whether the steps taken to promote the licensing objectives are satisfactory.

5.3 The Licensing Authority will not operate a quota of any kind, which would predetermine any application, nor will it seek to impose general limitations on trading hours in particular areas. Instead, regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, and other clubs all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be had to those differences and the impact they are likely to have on the local community.

Licensing Hours

6.1 Flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided. This can help to reduce friction at late night food outlets, taxi ranks and other sources of transport in areas where there have previously been incidents of disorder and disturbance.

6.2 Licensing hours should not inhibit the development of a thriving and safe evening and night time economy. This is important for investment, local employment, tourism and local services associated with the night time economy. Providing consumers with greater choice and flexibility is an important consideration, but should always be balanced carefully against the duty to promote the four licensing objectives and the interests of local residents.

6.3 The Licensing Authority expects that issues relating to licensing hours will be addressed by the applicant in the operating schedule.

6.4 In the interests of reducing crime, disorder and anti-social behaviour the Licensing Authority will prefer applications from public houses, night-clubs and registered clubs that show in their operating schedules a responsible approach to alcohol sales by:

- ending alcohol sales at a designated time before they close, i.e. a closing time later than a “last orders” time for alcohol sales;
- Specifying a time by which the premises will be emptied of patrons and closed.

6.6 The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. However, when issuing a licence, stricter conditions are likely to be imposed with regard to noise control in the case of premises that are situated in largely residential areas.

10. Licence Conditions

10.1 The Licensing Authority will avoid imposing disproportionate conditions on premises. It will only impose conditions that are necessary in order to promote the licensing objectives and are in themselves reasonable and proportionate.

10.3 Where appropriate the Licensing Authority will attach conditions from the model pool of conditions issued by the Home Office depending on the circumstances of each individual case.

10.4 The Council will seek to avoid attaching conditions to licences unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation (as indicated in paragraph 13.9 of the Secretary of State's Guidance). It is not the Licensing Authority's intention to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators e.g. The Health and Safety at Work Act 1974 and the Regulatory Reform (Fire Safety) Order 2005.

11. Planning and Building Control

11.1 The planning and licensing regimes involve the consideration of different (albeit related) matters. For instance licensing considers public nuisance whereas planning considers amenity. Licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the Council's Development Control Committee. The Licensing of Alcohol and Gambling Sub Committee is not bound by the decisions made by the Development Control Committee and vice versa.

11.2 The granting by the Licensing of Alcohol and Gambling Sub Committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.

11.3 There are also circumstances when, as a condition of planning permission, a terminal hour has been set for the use of the premises for commercial purposes. Where these hours are different from the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

11.5 The Council as Local Planning Authority is a Responsible Authority and can make representations on applications. It can, however, only make representations relating to the licensing objectives.

11.6 Public nuisance and crime and disorder are shared concerns of planning and licensing.

11.7 The absence of lawful planning use for an activity is not itself a matter for the Licensing Authority. The Licensing of Alcohol and Gambling Sub-Committee and the applicants may be informed of the planning status of the premises in reports on licensing applications. Only in exceptional cases would the Local Planning Authority make representation as a Responsible Authority. Whether the premises have planning permission or whether a lawful use exists are matters that are dealt with by the Local Planning Authority.

11.10 The Council regard licensing as a key means of controlling nuisance and antisocial behaviour and part of the holistic approach to the management of the evening and night time economy.

Duplication with other statutory regimes

12.5 In order to avoid duplication with other statutory regimes as far as possible the Licensing Authority will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

Live Music, Dancing and Theatre

15.1 When determining applications the Licensing Authority will have regard to any Guidance issued by the Home Office. In particular, account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Licensing Authority's consideration will be balanced against the wider benefits of the community.

15.2 When attaching conditions the Licensing Authority will also be aware of the need to avoid measures which might deter live music, dancing or theatre by imposing direct costs of a substantial nature.

15.3 The Licensing Authority acknowledges the advice received from the Department of Culture, Media and Sport that the views of vocal minorities should not be allowed to predominate over the general interests of the community.

15.4 Conditions to be imposed on relevant licences will not discourage the promotion of such entertainment but will relate solely to the promotion of the licensing objectives.

Administration, Exercise and Delegation of Functions

19.3 Applications where there are relevant representations will be dealt with by a Sub-Committee of the Licensing Authority, as will any application for review of a licence.

19.4 The Licensing Authority will expect individual applicants to address the licensing objectives in their operating schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community. Applicants should make themselves aware of this Policy and in particular the issues that will need to be addressed in formulating the operating schedule.

NATIONAL GUIDANCE

Each application on its own merits

1.15. Each application must be considered on its own merits and any conditions attached to licences and certificates must be tailored to the individual style and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed, may be unlawful where they cannot be shown to be necessary for the promotion of the licensing objectives in any individual case.

Avoiding duplication of other legal requirements

1.16. The licensing authority should only impose conditions on a premises licence or club premises certificate which are necessary and proportionate for the promotion of

the licensing objectives. If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be necessary to impose the same or similar duties on the premises licence holder or club. It is only where additional and supplementary measures are necessary to promote the licensing objectives that necessary, proportionate conditions will need to be attached to a licence.

Hours of opening

1.17. The Government strongly believes that, prior to the introduction of the Licensing Act 2003, fixed and artificially early closing times (established under the Licensing Act 1964) were one of the key causes of rapid binge drinking prior to closing times; and one of the causes of disorder and disturbance when large numbers of customers were required to leave the premises simultaneously.

1.18. The aim through the promotion of the licensing objectives should be to reduce the potential for concentrations and achieve a slower dispersal of people from licensed premises through flexible opening times. Arbitrary restrictions that would undermine the principle of flexibility should therefore be avoided.

1.19. The four licensing objectives should be paramount considerations at all times and licensing authorities should always consider the individual merits of a case.

Related Legislation and Strategies

1.26. Licensing law is not the primary mechanism for the general control of individuals once they are away from a licensed premises and therefore beyond the direct control of individual licensees or certificate holders. However, licensees and certificate holders should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden, or (once the smoking ban comes into force) in a smoking shelter, where and to the extent that these matters are within their control.

Public Nuisance

2.32. The 2003 Act requires licensing authorities (following receipt of relevant representations) and responsible authorities through representations, to make judgements about what constitutes public nuisance and what is necessary to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on impacts of the licensable activities at the specific premises on persons living and working (including doing business) in the vicinity that are disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

2.33. Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of interested parties (as defined in the 2003 Act) in the vicinity of licensed premises.

2.34. Conditions relating to noise nuisance will normally concern steps necessary to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time in the evening to more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions necessary to promote the prevention of public nuisance should be tailored to the style and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid unnecessary or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues.

2.35. As with all conditions, it will be clear that conditions relating to noise nuisance may not be necessary in certain circumstances where the provisions of the Environmental Protection Act 1990, the Noise Act 1996, or the Clean Neighbourhoods and Environment Act 2005 adequately protect those living in the vicinity of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be necessary.

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2.36. Where applications have given rise to representations, any necessary and appropriate conditions should normally focus on the most sensitive periods. For

example, music noise from premises usually occurs from mid-evening until either late evening or early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise in the immediate vicinity of the premises may also prove necessary to address any disturbance anticipated as customers enter and leave.

2.38. In the context of preventing public nuisance, it is again essential that conditions are focused on measures within the direct control of the licence holder or club. Conditions relating to public nuisance caused by the anti-social behaviour of customers once they are beyond the control of the licence holder, club or premises management cannot be justified and will not serve to promote the licensing objectives.

2.39. Beyond the vicinity of the premises, these are matters for personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.

ANNEX D POOLS OF CONDITIONS

Part 4: Conditions relating to the prevention of public nuisance

Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder which may result from arbitrarily fixed closing times. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times.

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public as such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue. Or the playing of recorded music might only be permitted after a certain time where conditions have been attached to the licence or certificate to ensure that any potential nuisance is satisfactorily prevented.

Restrictions might also be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

In premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to the following conditions.

Noise and vibration

In determining which conditions are necessary and appropriate, licensing authorities should be aware of the need to avoid unnecessary or disproportionate measures that could deter the holding of events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues. The following conditions may be considered:

- Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by one or more of the following conditions:
 - a simple requirement to keep doors and windows at the premises closed;
 - limiting live music to a particular area of the building;
 - moving the location and direction of speakers away from external walls or walls that abut private premises;
 - installation of acoustic curtains;
 - fitting of rubber seals to doorways;
 - installation of rubber speaker mounts;
 - requiring the licensee to take measure to ensure that music will not be audible above background level at the nearest noise sensitive location;

- require licensee to undertake routine monitoring to ensure external levels of music are not excessive and take appropriate action where necessary;
- noise limiters on amplification equipment used at the premises (if other measures have been unsuccessful).

- Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
- The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted.
- The placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

Determining Applications

General

9.1. When a licensing authority receives an application for a new premises licence or an application to vary an existing premises licence, it must determine whether the application has been made properly in accordance with section 17 of the 2003 Act, and in accordance with regulations made by the Secretary of State under sections 17(4), 17(5), 54 and 55 of the Act. This means that the licensing authority must consider among other things whether the application has been properly advertised in accordance with the regulations.

Where representations are made

9.3. Where a representation concerning the licensing objectives is lodged by a responsible authority about a proposed operating schedule it is relevant and the licensing authority's discretion will be engaged. It will also be engaged if an interested party makes relevant representations to the licensing authority, i.e. those which are not frivolous or vexatious and which relate to the licensing objectives (see paragraphs 9.8

– 9.13 below). Representations can be made in opposition to, or in support of, an application.

Relevant, vexatious and frivolous representations

9.8. A representation would only be “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessman which argued that his business would be commercially damaged by a new licensed premises would not be relevant. On the other hand, a representation that nuisance caused by the new premises would deter customers from entering the local area and the steps proposed by the applicant to control that nuisance were inadequate would be relevant. There is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations, and in fact this would not be possible for new premises. Further information for interested parties about the process for making representations is available in “Guidance for interested parties: Making representations” which can be found on the DCMS website.

9.20. Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. If the application is amended at the last moment, the licensing committee should consider giving interested parties time to address the revised application before the hearing commences.

9.24. As a matter of practice, licensing authorities should seek to focus the hearing on the steps needed to promote the particular licensing objective which has given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or interested party may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.

9.25. In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

the steps that are necessary to promote the licensing objectives;
the representations (including supporting information) presented by all the parties;
this Guidance;
its own statement of licensing policy.

9.26. The licensing authority should give its decision at once, unless the Act itself states otherwise and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be necessary for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition which is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety.

9.27. Alternatively, the licensing authority may refuse the application on the grounds that this is necessary for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that interested parties and others have the most current information.

Imposed Conditions

10.11. The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions. It may then only impose conditions that are necessary to promote one or more of the four licensing objectives. Such conditions must also be expressed in unequivocal and unambiguous terms to avoid legal dispute.

National guidance regarding non-duplication of other regimes is as follows:

10.15. Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for the licensing objectives. If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be necessary to impose the same or similar duties. For example, employers and self-employed people are required by the Management of Health and Safety at Work Regulations 1999 (SI 1999/3242) to assess the risks to their workers and any others (including members of the public visiting the premises) who may be affected by their business and identify measures needed to avoid or control risks. Conditions enforcing these requirements are therefore unnecessary.

10.17. Further, the Act does not affect the continued use of inspection and enforcement powers conferred by other legislation; for example, the powers of an environmental health officer in relation to statutory nuisance under the Environmental Protection Act 1990.

10.18. However, these general duties will not always adequately address specific issues that arise on the premises in connection with, for example, certain types of entertainment. It is only where additional and supplementary measures are necessary to promote the licensing objectives that conditions will need to be attached to a licence.

10.20. There is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested.

Observations

The Committee is obliged to determine this application with a view to promoting the licensing objectives, which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

In making its decision, the Committee is also obliged to have regard to national Guidance and the Council's own Licensing Policy.

The Committee must also have regard to all of the representations made and the evidence it hears.

The Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- (a) Grant the variation application as asked.
- (b) Modify the conditions of the licence, by altering or omitting or adding to them.
- (c) Reject the whole or part of the variation application.

The Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must be necessary in order to promote the licensing objectives.

**Application for a premises licence to be granted
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/W

o GREG SELFE

(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description			
KITCHENERS FIELD CASTLE HILL BERKHAMSTED			
Post town	BERKHAMSTED	Post code	HP41NE
Telephone number at premises (if any)	01442 862014		
Non-domestic rateable value of premises	£ 8,900		

Part 2 - Applicant Details

Please state whether you are applying for a premises licence as

Please tick yes

- | | | |
|---|-------------------------------------|-----------------------------|
| a) an individual or individuals * | <input type="checkbox"/> | please complete section (A) |
| b) a person other than an individual * | | |
| i. as a limited company | <input type="checkbox"/> | please complete section (B) |
| ii. as a partnership | <input type="checkbox"/> | please complete section (B) |
| iii. as an unincorporated association or | <input type="checkbox"/> | please complete section (B) |
| iv. other (for example a statutory corporation) | <input type="checkbox"/> | please complete section (B) |
| c) a recognised club | <input checked="" type="checkbox"/> | please complete section (B) |
| d) a charity | <input type="checkbox"/> | please complete section (B) |

- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm:

- Please tick yes
- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
 - I am making the application pursuant to a
 - o statutory function or
 - o a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

<input type="checkbox"/> Mr	<input type="checkbox"/> Mrs	<input type="checkbox"/> Miss	<input type="checkbox"/> Ms	Other Title (for example, Rev)	
Surname			First names		
I am 18 years old or over				<input type="checkbox"/> Please tick yes	
Current postal address if different from premises address					
Post Town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

SECOND INDIVIDUAL APPLICANT (if applicable)

<input type="checkbox"/> Mr	<input type="checkbox"/> Mrs	<input type="checkbox"/> Miss	<input type="checkbox"/> Ms	Other Title (for example, Rev)	
Surname			First names		
I am 18 years old or over				<input type="checkbox"/> Please tick yes	
Current postal address if different from premises address					

Post Town		Postcode	
Daytime contact telephone number			
E-mail address (optional)			

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name	BERKHAMSTED SPORTS (CRICKET) CLUB
Address	KITCHENERS FIELD CASTLE HILL BERKHAMSTED HP 4 1HE
Registered number (where applicable)	
Description of applicant (for example, partnership, company, unincorporated association etc.)	REGISTERED CLUB
Telephone number (if any)	01442 862014
E-mail address (optional)	greg.selfe@sky.com

Part 3 Operating Schedule

Month
Year

Day

When do you want the premises licence to start?

ASAP

Month Day
Year

If you wish the licence to be valid only for a limited period, when do you want it to end?

Please give a general description of the premises (please read guidance note 1)
CLUB PAVILION WITH OUTSIDE DECK AREA,
CAR PARK AND 8 ACRE PLAYING FIELD
THE PREMISES IS ACCESSED VIA A 200 YARD LONG
DRIVEWAY
THE NEAREST HOUSING IS APPROX 300 YARDS AWAY

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick yes

- | | |
|---|-------------------------------------|
| a) plays (if ticking yes, fill in box A) | <input type="checkbox"/> |
| b) films (if ticking yes, fill in box B) | <input type="checkbox"/> |
| c) indoor sporting events (if ticking yes, fill in box C) | <input type="checkbox"/> |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D) | <input type="checkbox"/> |
| e) live music (if ticking yes, fill in box E) | <input checked="" type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F) | <input checked="" type="checkbox"/> |
| g) performances of dance (if ticking yes, fill in box G) | <input type="checkbox"/> |
| h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input type="checkbox"/> |

Provision of entertainment facilities:

- i) making music (if ticking yes, fill in box I)
- j) dancing (if ticking yes, fill in box J)
- k) entertainment of a similar description to that falling within (i) or (j)
(if ticking yes, fill in box K)

Provision of late night refreshment (if ticking yes, fill in box L)

Supply of alcohol (if ticking yes, fill in box M)

In all cases complete boxes N, O and P

E

Live music Standard days and timings (please read guidance note 6)			Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon			A SINGING SOCIETY MEET FOR AN HOUR MOST FRIDAY MORNINGS (GROUP OF @ 17-20 PERSONS) THE MUSIC IS UNAMPLIFIED		
Tue					
Wed			State any seasonal variations for the performance of live music (please read guidance note 4)		
Thur			ONE SUNDAY IN JUNE FOR OUTDOOR OPERA/JAZZ/CLASSICAL MUSIC EVENT STARTING EARLY PM & ENDING AT 21.00 ONE SATURDAY IN SEPTEMBER FOR OUTDOOR MUSIC FESTIVAL STARTING AT 12.00 & ENDING AT 21.00		
	19.00	23.00			
Fri	10.00	12.00	Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 5) (IF ONE OF THE EVENTS BELOW TAKES PLACE THEN THE OTHER TWO WILL NOT HAPPEN)		
	19.00	00.30			
Sat			EITHER: XMAS EVE OR NEW YEARS EVE EVE		
	19.00	01.00			
Sun			OR NEW YEARS EVE		
	15.00	21.30			

F

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 3) RECORDED MUSIC MAY TAKE PLACE IN A TEMPORARY MARQUEE SITED ON THE DECKING & LINKED TO THE CLUB HOUSE FOR A MAXIMUM OF FOUR OCCASIONS PER ANNUM. THE MARQUEE WILL BE REMOVED AFTER EACH EVENT	Both	<input checked="" type="checkbox"/>
Tue					
Wed			<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 4)		
Thur	19.00	00.00			
Fri	19.00	00.30	<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 5) EITHER: XMAS EVE } UNTIL 01.00 OR NEW YEARS EVE EVE } OR NEW YEARS EVE } (NB ONLY ONE OF ABOVE WILL OCCUR IN ANY ONE YEAR)		
Sat	19.00	01.00			
Sun	19.00	23.00			

J

Provision of facilities for dancing Standard days and timings (please read guidance note 6)			Will the facilities for dancing be indoors or outdoors or both – please tick (see guidance note 2)	Indoors <input checked="" type="checkbox"/>
			Outdoors <input type="checkbox"/>	Both <input type="checkbox"/>
			Please give a description of the facilities for dancing you will be providing	
Day	Start	Finish	Please give further details here (please read guidance note 3)	
Mon				
Tue				
Wed				
Thur			State any seasonal variations for providing dancing facilities (please read guidance note 4)	
	19.00	00.00		
Fri				
	19.00	00.30		
Sat			Non standard timings. Where you intend to use the premises for the provision of facilities for dancing entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)	
	19.00	01.00	EITHER! XMAS EVE } UNTIL 01.00 OR NEW YEARS EVE EVE OR NEW YEARS EVE	
Sun				
	19.00	23.00		

M

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption (Please tick box) (please read guidance note 7)	On the premises	<input checked="" type="checkbox"/>
				Off the premises	<input type="checkbox"/>
			Both	<input type="checkbox"/>	
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4)		
Mon	11.00	23.00	ONE SUNDAY IN JUNE EACH YEAR FOR SALE OF ALCOHOL AT OPERA/JAZZ/CLASSICAL EVENT UNTIL 22.00		
Tue	11.00	23.00	ONE SATURDAY IN SEPTEMBER EACH YEAR FOR SALE OF ALCOHOL AT MUSIC EVENT UNTIL 22.00		
Wed	11.00	23.30	ONE SATURDAY EVENING IN NOVEMBER EACH YEAR FOR SALE OF ALCOHOL AT FIREWORKS EVENT UNTIL 21.00		
Thur	11.00	23.30	Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5)		
Fri	11.00	00.30	XMAS EVE		
Sat	11.00	01.00	NEW YEAR EVE } UPTO 01.00 AM		
Sun	11.00	23.00	NEW YEAR EVE EVE } BANK HOLIDAYS }		

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

Name	JAMES ALEXANDER MORGAN
Address	66 ST EDMUNDS BERKHAMSTED Herts HP4 2HS
Postcode	HP4 2HS
Personal Licence number (if known)	DAC 029009
Issuing licensing authority (if known)	DACORUM BOWGH COUNCIL

N

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)

O

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)
Day	Start	Finish	
Mon	11.00	23.30	
Tue	11.00	23.30	
Wed	11.00	00.00	
Thur	11.00	00.30	<u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u> (please read guidance note 5) EITHER! XMAS EVE } UPTO 01.30AM. OR NEW YEAR EVE } OR NEW YEAR EVE EVE } (NB ONLY ONE OF THE ABOVE WILL OCCUR IN ANY ONE YEAR)
Fri	11.00	01.00	
Sat	11.00	01.30	
Sun	11.00	23.30	

P Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)

029276

1. THE CLUB ACTIVITIES AND EVENTS PROGRAMME IS OVERSEEN BY A CLUB MANAGEMENT COMMITTEE
2. THE BAR SUPERVISOR WILL HAVE A PERSONAL LICENSE
3. ALL BAR STAFF WILL BE TRAINED TO THE SATISFACTION OF THE SUPERVISOR

b) The prevention of crime and disorder

1. ALL THREE EVENTS WILL BE HEAVILY MARSHALLED
2. NO PERSONS UNDER AGE OF 18 WILL BE SOLD ALCOHOL.
3. ALL DRINKS WILL BE SOLD IN PLASTIC GLASSES.
4. ALL MAJOR EVENTS WILL BE TICKETED.

c) Public safety

A FULL RISK ASSESSMENT AND EVACUATION PLAN HAS BEEN PREPARED FOR ALL THREE EVENTS
THE CLUB WILL LIAISE WITH ENVIRONMENTAL HEALTH, POLICE, FIRE AND AMBULANCE SERVICE PRIOR TO EVENT TAKING PLACE

d) The prevention of public nuisance

1. THE PLAYING FIELD WILL ONLY BE USED FOR LICENSABLE ACTIVITIES ON THREE OCCASIONS PER YEAR.
2. A FLYER WILL BE SENT TO LOCAL RESIDENTS AT LEAST 2 WEEKS BEFORE AND INFORMING THEM OF AN EVENT
3. A SITE VISIT WILL BE ORGANISED WITH THE ENVIRONMENTAL HEALTH INSPECTOR PRIOR TO AN EVENT TO MINIMISE POTENTIAL NOISE DISTURBANCE
4. ALL EVENTS TO END BY 21.00 TO AVOID LATE NIGHT DISTURBANCE TO LOCAL RESIDENTS.
5. CONTROLLED ENTRY (TICKET SALES ONLY)

e) The protection of children from harm

ALL BAR STAFF TRAINED TO DEAL WITH UNDER AGE DRINKING.
IDs WILL BE REQUESTED.

Please tick yes

- I have made or enclosed payment of the fee
- I have enclosed the plan of the premises
- I have sent copies of this application and the plan to responsible authorities and

- others where applicable
- I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable
- I understand that I must now advertise my application
- 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 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 11). **If signing on behalf of the applicant please state in what capacity.**

Signature	<i>A. Selke</i>
Date	20/12/12
Capacity	CLUB MANAGER

For joint applications signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent. (please read guidance note 12). **If signing on behalf of the applicant please state in what capacity.**

Signature	
Date	
Capacity	

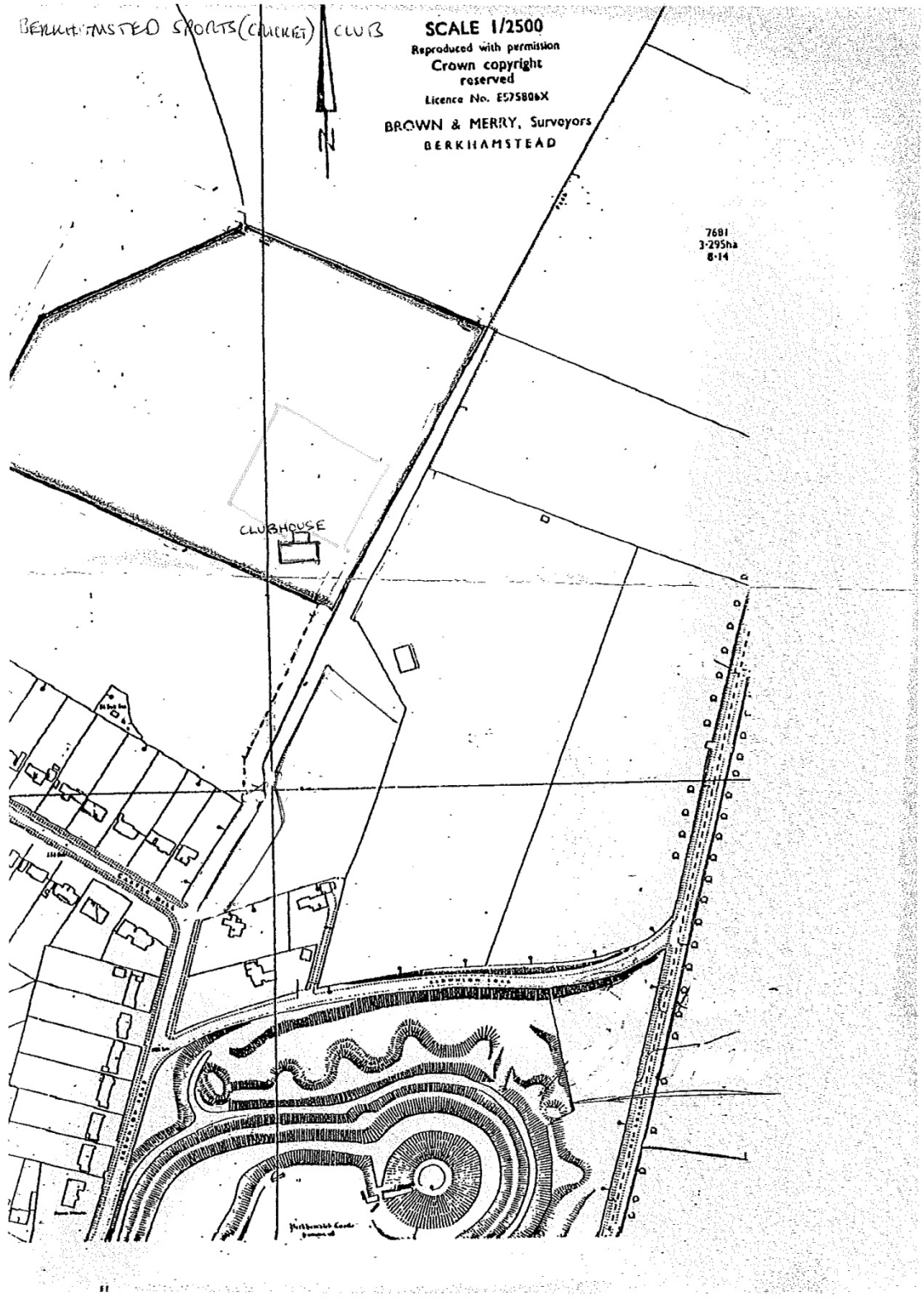
Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)

A. SELKE
21 UPPER ASHLYNS ROAD

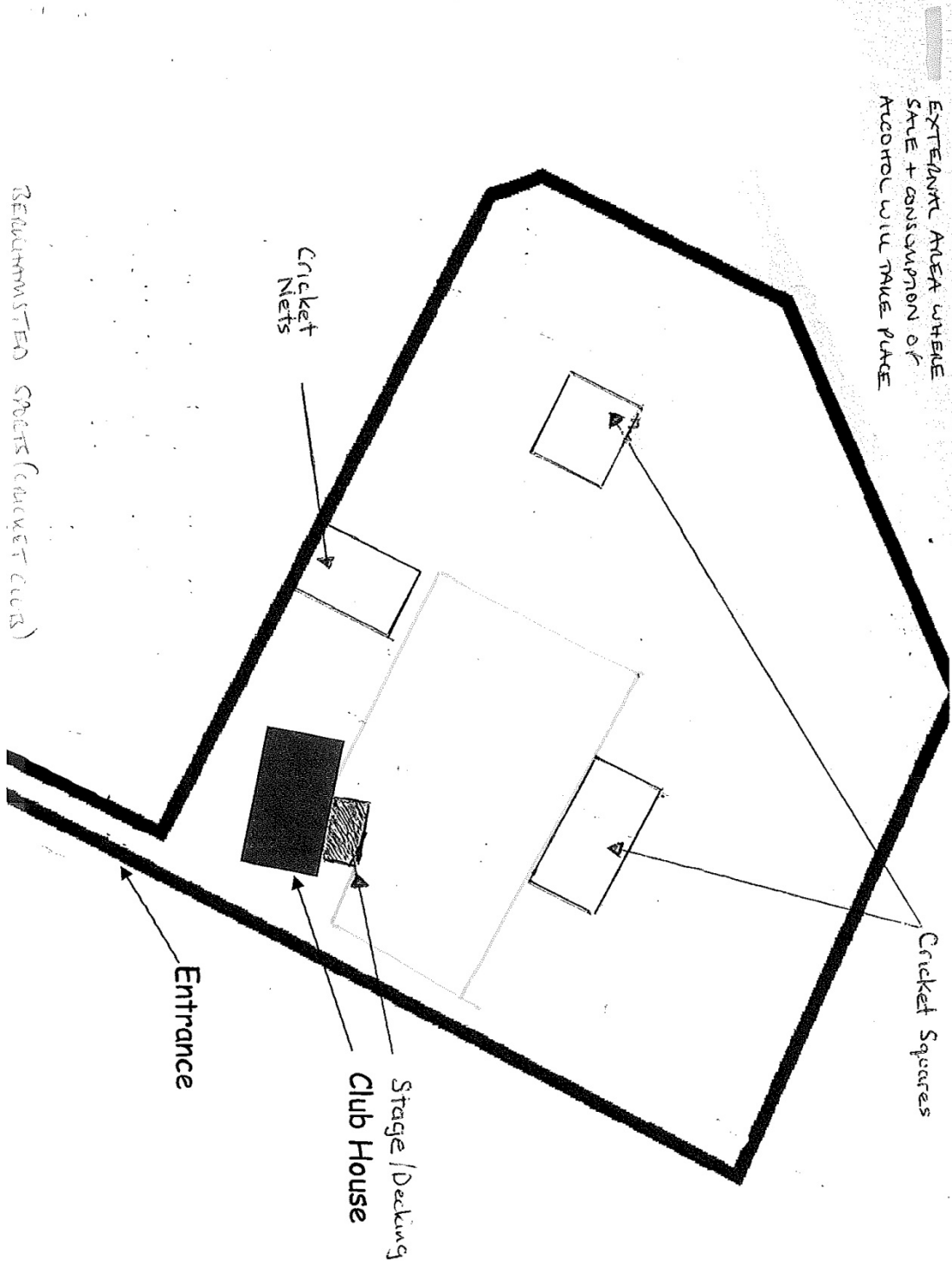
Post town	BERKHAMSTED	Post code	HP4 3BW
Telephone number (if any)	07836 221613		
If you would prefer us to correspond with you by e-mail your e-mail address (optional)			

Notes for Guidance

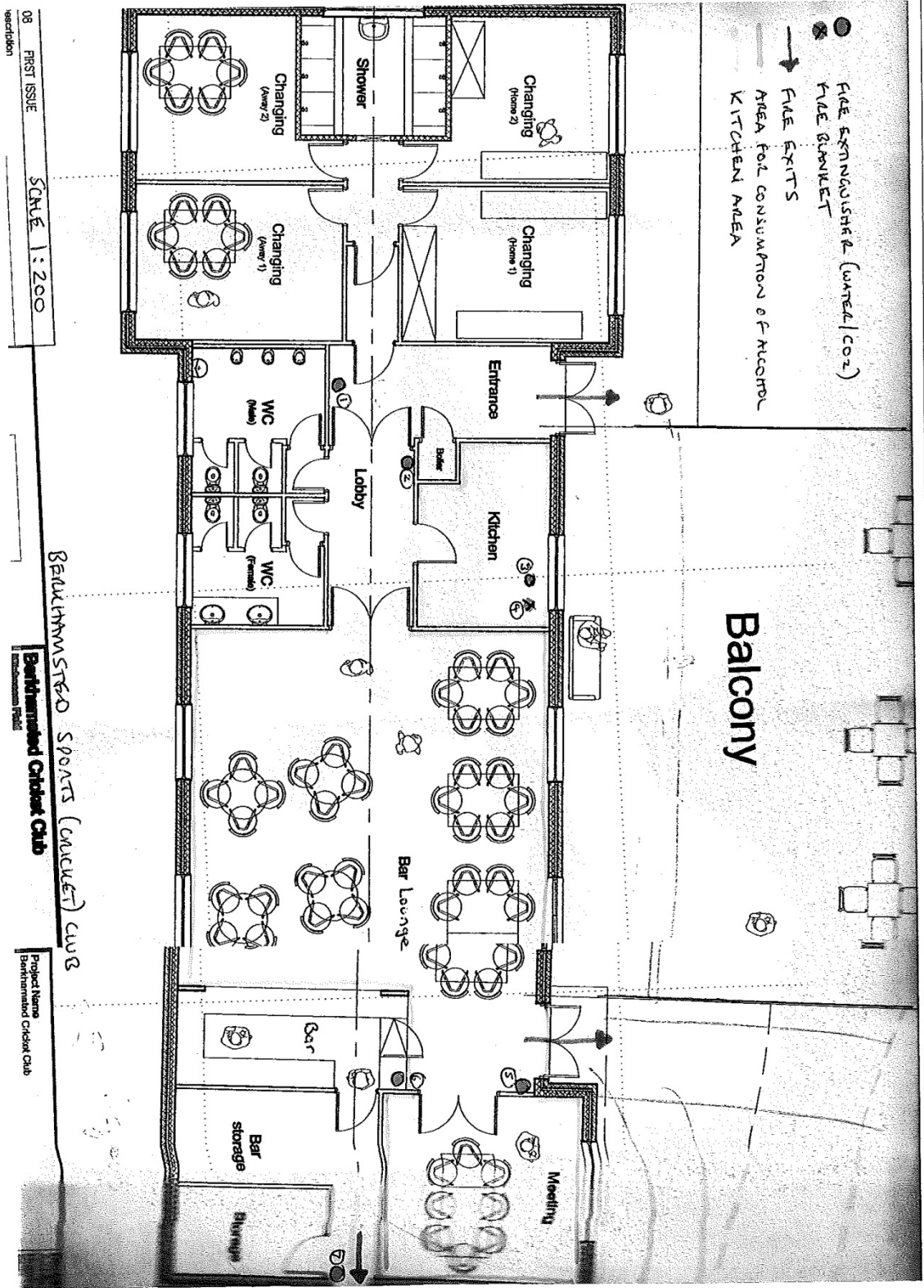
1. Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.



ANNEX B'2'



ANNEX B'3'



Sally Taylor

From: Glen.Hill@herts.pnn.police.uk
Sent: 24 February 2012 11:40
To: Sally Taylor GCSX Mailbox
Cc: Richard Mabbitt GCSX Mailbox; Linda.Holliday@Herts.pnn.police.uk
Subject: Berkhamsted Sports (Cricket) Club, Kitcheners Field, Berkhamsted.

Sally/Richard,

Re above application for a New Premises Licence ~ all in order, no 'reps' to be made.

Kind regards..... Glen

PC 1321 Glen Hill ("Benny")
Licensing Enforcement & ASB Support Officer ~ Dacorum CSP
Hertfordshire Constabulary

☎ **Phone:** 01442 271601
☎ **Internal:** 1601
☎ **Fax:** 01442 271604
✉ **E-mail:** glen.hill@herts.pnn.police.uk
✉ **Mail:** Community Safety Unit, County Police Station,
Coombe Street, Hemel Hempstead,
Herts. HP1 1HL.

This e-mail is subject to our Legal Notice which you can view here [Hertfordshire Constabulary's Legal Notice](#)



Response in Relation to Consultation

Under the Licensing Act 2003

From Environmental Health

Officer : Alison King Date : 27 February 2012

Application : Berkhamsted Sports & Social Club Kitcheners Field Castle Hill Berkhamsted

Ref: 337736

History :

None

Comments or Observations Relating to the Application :

As a result of the application and type of events proposed, a number of sites visits and inspections were made by Environmental Health, which included a meeting with the applicants and Stage Director of the events at the premises. This allowed discussions to take place about the event activities, the site layout and the impact of the event on the local area.

The site inspection involved a temporary set up of the amplified stage equipment, which enabled Environmental Health to undertake a noise boundary assessment.

No specific sound levels were set during these visits due to poor weather conditions, so I have agreed with the applicant that Environmental Health must visit prior to the commencements of the events to set noise boundary levels.

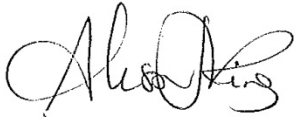
Environmental Health has no objections to the application; however we will require an 'Informative' to be placed on the Licence should the application be granted:

The applicants must contact Environmental Health at least 14 days prior to an event taking place so that a suitably timed appointment can be arranged for an Officer from Environmental Health to visit the site to set boundary noise levels prior to an events commencement.

Suggested Remedy to Address the Objection :

None

I trust this information is of use to you. If I can be of any further assistance, please contact me.

A handwritten signature in black ink, appearing to read 'Alison King', written in a cursive style.

**Alison King B.Sc (Hons)
Environmental Health Officer
Environmental Health**

Sally Taylor

From: Joan Reid
Sent: 21 February 2012 12:36
To: Sally Taylor
Cc: Paul Newton; Mark Staincliffe
Subject: RE: Licensing Act 2003: Application for premise licence, Berkhamsted Sports (cricket) Club Kitcheners Field

Hi Sally,

In terms of the licence application for Berkhamsted Cricket Club, under Part 4 of the General Permitted Development Order 1995, there are allowances for temporary uses up to 28 days on land however this does not extend to any land within the curtilage of a building. It is my informal view therefore that planning permission will be required for this festival should it be held within the grounds next to the club house.

Please let me know if you require further information.

Kind regards

Joan Reid

Joan Reid | Planning Officer

Development Management | Planning & Regeneration | Dacorum Borough Council | Civic Centre | Marlowes | Hemel Hempstead | HP1 1HH

T: 01442 228659 | E: joan.reid@dacorum.gov.uk

From: Sally Taylor
Sent: 06 February 2012 15:52
To: Joan Reid; Paul Newton
Subject: Licensing Act 2003: Application for premise licence, Berkhamsted Sports (cricket) Club Kitcheners Field

For your information.

Kind regards

Sally

Sally Taylor
Licensing Support Officer
Regulatory Services
Tel: 01442 228470

Response in Relation to Consultation

Under the Licensing Act 2003

**From Environmental Health
(Health and Safety)**

Officer : Iain Newcombe Date : 7 February 2012

Application : Berkhamsted Sports & Social Club, Kitcheners Field, Castle Hill, Berkhamsted

History :

None

Comments or Observations Relating to the Application :

None

Specific Objection / Representation :

None

Suggested Remedy to Address the Objection :

None

I trust this information is of use to you. If I can be of any further assistance, please contact me.



Iain Newcombe
Technical Officer
Regulatory Services

ANNEX 'D'

24 February 2012

Licensing Division
Dacorum Borough Council
Hemel Hempstead Civic Centre
Marlowes
Hemel Hempstead
Herts
HP1 1HH

Representation about Licensing Application – Berkhamsted Sports and Social Club, Kitcheners Field

I am writing to make a representation about the currently pending Licensing Application submitted by the Berkhamsted Sports and Social Club. I am an interested party, as I reside nearby on Castle Hill.

My representation has to do with the prevention of public nuisance, specifically, **noise**. By "noise" I mean music, car-traffic, and the noise made by individuals who are attending events at the Club.

Castle Hill is a very quiet neighbourhood that is 100% residential i.e. no commercial activity.

While I am supportive of the Sports and Social Club hosting social events as a means to keep itself funded, I **OPPOSE** having such late times at night for playing music and serving alcohol. I would recommend **10 PM** as the cutoff time for both alcohol and music, all seven days of the week. In this way, I would hope that parties will largely be dispersed and the noise from car traffic leaving the club will largely be over and done with by about 10:30 PM.

Very sincerely,

Berkhamsted
HP4 1HE

Cc: Alan Kemp, Berkhamsted Town Council



6. LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE PROCEDURE

Introduction

The four licensing objectives, as established by the Licensing Act 2003, are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance and
- the protection of children from harm.

Each application that comes before the Sub-Committee will be treated on its own merits, and this Licensing Authority will take its decision based upon:

- the merits of the application;
- the promotion of the four licensing objectives;
- the policy of the Licensing Authority, a copy of which can be obtained from the Council's Licensing Officer;
- the guidance issued under section 182 of the Licensing Act 2003 by the Secretary of State for Culture, Media and Sport in July 2004, as amended in July 2006 and as further amended in June 2007.

Procedure

The procedure of the Sub-Committee will be as follows:

1. The Chairman will open the meeting by:
 - (a) Introducing the Members of the Sub-Committee, (at the same time indicating any change in membership), and the Officers present, to the parties and any other person in attendance, including any representative of the press;
 - (b) stating the nature of the matter to be considered, (including a reference to the name of the premises or place concerned) and
 - (c) explaining the procedure to be followed.
2. The Chairman will ask those present to introduce themselves and:
 - (a) if any party, without prior notice, fails to attend or to be represented, the Sub-Committee will consider whether or not it is necessary in the public interest to adjourn the hearing to a specified date;
 - (b) if any party is unaccompanied, the Chairman will clarify whether that party understood it was permissible to have a representative;
 - (c) the Chairman will establish whether it is proposed anyone speak as a spokesperson;
 - (d) the Sub-Committee will consider:
 - (i) any properly made request by a party for permission for any other person, (not being a representative), to appear and
 - (ii) any request to provide late documentary or other information and will only take the same into account if the other parties consent.
3. The Chairman will ask whether any Member has an interest to declare and whether any Member has visited the premises or place the subject of the application.

4. The Chairman will establish whether all Members of the Sub-Committee have read the papers before them.
5. The Chairman will ask the Officers present to confirm whether there has been compliance with all relevant requirements and to summarise any relevant information, as necessary.
6. Members may ask any relevant question of any Officer.
7. The Chairman will ask each person who is to speak at the meeting for an indication of how much time he or she reasonably estimates is required to make relevant points concisely, and without undue repetition, and will consider a maximum period of time to be applied equally in the case of all the parties.
8. The Sub-Committee will hear from the Applicant (and any proposed Premises Supervisor, if applicable), any Responsible Authority and any Interested Party (in that order, except in the case of a Review where the order will be: the Interested Party or Responsible Authority which has made the application for Review, the Licence-Holder and any Interested Party and/or Responsible Authority which has not made the application for Review). Subject to 2 (d)(ii) above, those persons speaking may only raise points which have been made in writing prior to the meeting and/or give further information, by way of clarification of a point, if this has been sought by the Authority in the notice given by it prior to the hearing.
9. In every case at a suitable point, Members of the Sub-Committee may ask relevant questions of each party.
10. The Sub-Committee will consider any party's request to question/cross-examine another party and will not permit cross-examination unless it is of the view that it is required in order for Members to consider the representations, application or notice as the case may be.
11. The Chairman will invite any Interested Party, any Responsible Authority and the Applicant (in that order, except in the case of a Review where the order will be: any Interested Party and/or any Responsible Authority which has not made the application for Review, the Licence-Holder and the Interested Party or Responsible Authority which has made the application for Review), or those representing them, to summarise their points if they wish. At this stage, the Applicant will be afforded the opportunity to consider whether or not to propose amendments to the operating schedule with a view to addressing relevant issues and any such amendment would then fall to be discussed.
12. The Chairman will seek confirmation from all parties that they are satisfied they have made all the pertinent points which they wished to make.
13. Members of the Sub-Committee will discuss what has been said and written on the matter before them and make their decision.
14. The Chairman will confirm the decision, the reasons for the decision, and any condition placed upon the licence (if granted) and the licensing objective to which each condition relates.

Please Note

- All properly made applications, notices and representations received from absent parties will be considered.
- An Applicant has a right to appeal, details of which can be obtained via the Licensing Officer.

- The Authority has the right to require any person who, in its opinion, is behaving in a disruptive manner, to leave the hearing and may preclude, or impose conditions in relation to, that person's return.

7. EXCLUSION OF THE PUBLIC

To consider passing a resolution in the following terms:

That, under s.100A (4) of the Local Government Act 1972 Schedule 12A Part 1 as amended by the Local Government (Access to Information) (Variation) Order 2006 the public be excluded during the item in Part II of the Agenda for this meeting, because it is likely, in view of the nature of the business to be transacted, that if members of the public were present during that item there would be disclosure to them of exempt information relating to:

DACORUM BOROUGH COUNCIL

LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE

26 JANUARY 2012

Present –

MEMBERS:

Councillors Mrs Green (Chairman), Sutton and Taylor.

OFFICERS:

N Pope	Group Manager (Legal Governance)
K Ashton	Team Leader (Environmental Health & Licensing)
S Taylor	Licensing Support Officer
P Bowles	Member Support Officer
T Coston	Member Support Officer
A King	Environmental Health Officer
T Aldridge-Jones	Environmental Health Officer

Other Persons Present:

Mr and Mrs Wheway	Licensees (The George)
Mr Jones	Solicitor Representing Mr and Mrs Wheway
Mr McDowell	Interested Party
Sergeant Dean	Hertfordshire Police
PC Young	Hertfordshire Police
D O'Neil	Gazette

The meeting began at 2.30 pm

1. INTRODUCTIONS

The Chairman introduced herself, the Councillors on the Sub-Committee and the officers present. The Chairman then asked the other persons present to introduce themselves.

2. MINUTES

The Minutes of the meeting held on 19 October 2011 were agreed by the Members present and then signed by the Chairman, subject to changing references to the names of Councillors Sutton and Green.

3. APOLOGIES FOR ABSENCE

There were no apologies for absence.

4. DECLARATIONS OF INTERESTS

No interests were declared.

The Chairman outlined the procedure for a Review, as set out in the agenda, and explained there would be introductions and there was the question of adjournment, as a speaker could be represented if he or she was not represented. The speakers would speak for an agreed time and late documentation could only be introduced by the

agreement of all parties. The Chairman said the matters of visits to the premises, the reading of papers and formal requirements would be addressed and the discussion would be led by the Panel. The Chairman emphasised that all speakers were not permitted to introduce new information and there should be no repetition. The order of speakers would be: 1) the Borough Council; 2) Mr Wheway; 3) Mr McDowell and there would be cross-examination only if this was necessary in the view of Members.

The Chairman informed the Sub-Committee that she is the Ward Councillor for Berkhamsted West. The George is in Berkhamsted East Ward. The Chairman said that she has not visited the premises.

Councillor Taylor declared that he is Ward Councillor for Gadebridge. He has not visited the premises for over 10 years.

Councillor Sutton declared that he is Ward Councillor for Leverstock Green. He has not visited the premises but is aware of its location.

LICENCE HEARINGS

The application was for:

The George,
261 High Street
Berkhamsted
Hertfordshire
HP4 1AB

The Chairman asked the Members of the Sub-Committee if they had read the Agenda and all additional documents. Councillors Sutton and Taylor confirmed they had read the documents at hand.

The Chairman asked whether all legal obligations had been complied with.

Ms Ashton confirmed that they had.

The Chairman asked the parties for how long they wished to speak. Mrs King indicated 5 minutes, Mr Jones said 10 minutes and Mr McDowell said 5 minutes. Everyone agreed to 10 minutes.

The Chairman asked Mrs King for her statement.

Mrs King made a statement with the following comments:

Reason for review

This application has been made to review the Premises Licence held for The George Public House, due to music and noise emanating from the premises which is undermining the Licensing Objective in respect of Prevention of Public Nuisance under the Licensing Act 2003.

History

Environmental Health have dealt with a considerable number of noise complaints from the premises over the past 10 years which has resulted in enforcement action being instigated by the means of Statutory Abatement Notices pursuant to the Environmental Protection Act 1990, which was subsequently followed by three prosecutions at the Magistrates Court for breach of the notices.

Seizure of noise generating equipment has also been undertaken.

Complaints of noise have been received sporadically over the past 18 months, which has resulted in discussions and meetings being held with Mr & Mrs Wheway and subsequently further investigations by Environmental Health.

Recent complaint

In September last year a formal complaint was received by Environmental Health from a neighbour alleging that noise from loud music and persons using the 'smoking area' in the rear garden area were causing a nuisance in their home. The complaints stated that the noise was specifically causing a problem in the rear bedroom of their property.

As a result of this Mrs King held a number of conversations with Mark Wheway advising him of the complaint received and informed him that he must ensure the noise limiting device is used at all times when amplified music is played.

Current Investigation

Mark Wheway was informed that Officers from Environmental Health would be visiting the area to assess the levels of noise and that recording equipment might be used.

As a result of the complaints received, Officers from Environmental Health and Licensing undertook their investigation by visiting both The George and the complainants' home in September 2011 and installing recording equipment in the neighbour's property in November. (Friday 4th and Saturday 5th November 2011 and Friday 11th and Saturday 12th November 2011).

The visits to the complainants' property revealed that noise from the George Public House was clearly audible within the rear bedroom of their home. The noise comprised loud voices and shouting from persons within the smoking area of the premises and also low frequency bass levels from the music.

The data from the noise monitoring equipment has been analysed and also confirms that the noise emanating from The George is having a detrimental impact on the neighbouring property.

Noise levels and guidelines

The World Health Organisation Guidelines for Community Noise 2009 provides recommended noise levels for day and night exposure and also recommended levels to avoid sleep disturbance.

The evidence obtained from both the visits and the data from the noise monitoring equipment reveal that the Licensing Objective in respect of the Prevention of Public Nuisance is clearly being undermined. In addition the noise exceeds the recommended noise levels as provided by the World Health Organisation.

Licensing conditions:

The current conditions on the licence are insufficient to prevent such disturbances and undermine the licensing objectives in respect of the Prevention of Public Nuisance.

Summary

Evidence has been obtained by the Complainants, Officers from Environmental Health and the data from the Digital Audio Tape Recording Equipment, which reveal not only are the conditions attached to the Premises Licence being breached, they are not sufficient to prevent a nuisance being caused to nearby residents and that the level of the disturbance caused by the current use of the premises is undermining the Licensing Objective in respect of Prevention of Public Nuisance.

Following the submission of this review, Environmental Health and the Licensing division have held a number of meetings with Mr & Mrs Wheway and also one with their legal representative, Mark Jones, to discuss ways forward in the prevention of public nuisance from the premises.

Conditions required to be included on the licence have been discussed, which will be proposed to the Sub-Committee by The George.

Environmental Health strongly recommends that a strict written management regime be put in place by the premises management team, to ensure that the proposals/conditions put forward are implemented without delay and address the issues mentioned.

Environmental Health acknowledges that whilst works have already commenced on the premises by Mr & Mrs Wheway to instigate some of these proposals, it cannot be stressed enough the importance that the way the premises is managed is paramount to achieving the proposed conditions.

Failure to comply with these requests will instigate further investigation and will very likely be brought back before the Committee.

Mrs King's representations lasted 4 minutes.

The Chairman asked Mr Jones, the Applicant's representative, for his statement.

Mr Jones made a statement with the following comments:

- Mr and Mrs Wheway have worked successfully over the past 6 years to deal with issues arising, concerning the operating of the premises, and that approach will continue.
- They were pleased that conditions have been discussed with Environmental Health Officers as to how the present matter can be addressed immediately. A copy of the proposed additional conditions was submitted to the Sub-Committee and Mr Jones went through the 9 proposed conditions.
- Environmental Health Officers have been called out to the premises on numerous occasions during last summer and on each occasion they determined that there was no noise nuisance.
- Mr and Mrs Wheway had not been informed of the visits.
- Substantial improvement has been made in the running of The George. The nature of the business there has evolved and now, following substantial refurbishment, the client profile has altered and now tends to attract older customers with a higher spend per person. It is therefore not the same Public House that it was even one year ago.
- It is true that Mr McDowell has complained at regular intervals about noise nuisance. Mr Jones said that his client's major concern was that in many respects this has become an unseemly neighbour dispute. This point was made because Mr McDowell had taken it upon himself to come to the front of the premises to approach, uninvited, customers of the public house, causing trouble and heightening tensions. On 16 January 2012 there had been an incident involving a patron of 60 years of age at about 6 pm. It was a Monday night and the patron had been spoken to by Mr McDowell in aggressive terms. The patron was very shaken and upset and reported the incident to the Police.

- Certainly one of the proposed conditions depends upon the security of front of house running successfully and if this is interfered with by inappropriate behaviour of a neighbour, it will make matters a lot more difficult.
- When smokers leave the designated area at the rear of the pub after midnight and go to the other designated area in front of the pub there will be a limit of 10 patrons in that area and this could be undermined by another person intentionally. Approaches have been made to Mr and Mrs Wheway by their neighbours, including in the presence of their children. Appropriate changes need to be made on all sides.
- Mr Jones said he might seek to cross-examine Mr McDowell depending what happens.

Mr Jones' representations lasted 7 minutes.

The Chairman asked Mr McDowell for his statement.

Mr McDowell began his statement by asking if a recording made from his home on Saturday 14 January at 00.58 am could be played. Recordings had been taken over 5 weekends and this was the last one.

It was agreed that the recording could be heard.

Ms Aldridge-Jones explained that this particular recording was just one of a number of recordings taken over a period of time and represented what was audible in the rear bedroom.

Several minutes of the recording were played and voices and occasional shouting could be heard coming from the smoking area at the rear of The George.

Mr McDowell confirmed for Councillor Sutton the noise was mainly from the smoking area.

Mr McDowell made the following comments:

- It was difficult to find any of the existing conditions that are currently complied with. Mr McDowell referred to specific conditions that he said were being contravened:
 - SIA qualified staff to operate as door security on Friday and Saturday from 8.00pm. he said they are rarely there before 9.30pm.
 - SIA qualified staff will remain on the street for 15 minutes after closing time. On Friday night/Saturday morning this should be 1.45am, but they are gone by 1.00am.
- Just a few weeks ago 13 people were outside Mr McDowell's property after closing time and one of the 13 people was holding a drink. This was reported to the police. It seems as if it is a free for all outside the pub for upto half an hour after closing time. This is in mid-winter and can only get worse in the summer.
- On the same evening Mr Wheway was witnessed shaking hands and hugging and kissing the girls before ambling back into the pub without doing a thing.
- As regards the different clientele profile the pub is now attracting, as reported in this week's Gazette, Mr McDowell said he would like to know which councillor, doctor or lawyer was vomiting on his property on Saturday morning. This was a very regular occurrence. Nothing has changed and Mr McDowell said it is disgraceful what he and his family have to put up with.
- The noise limiter has been circumvented for years.

- When Mr McDowell confronted Mr Wheway about the noise on one occasion and asked him to open all the windows, Mr Wheway refused to comply.
- The music starts late and gets ramped up over the evening and can still be heard at 1.00am in the morning. A place like this should not be open until 1.30am. They have used up any good will a long time ago. The music rarely goes off when it should do and then there are end of night singsongs to Neil Diamond, Dean Martin and others.
- 3 out of the 5 weekends when the noise recorder was on, the music went on late after the designated time by up to 10 minutes past and these can be verified by the recordings.
- The recordings taken at the rear of the pub at 1.00am in the middle of winter have recorded dreadful noise. It is a zoo out there. The George is promoted as a 'Party Pub' and the proprietor does nothing to curb the noise and swearing. You can hear "Hey Mark..." this and that. Not once in 4 years has Mr Wheway been heard asking his patrons to have respect for the neighbours. There is "effing and blinding". Mr McDowell looks out the front to see what is happening and his family don't know what Saturday mornings are like and can't have guests at the back.
- If football matches are shown the noise starts earlier in the day and continues right through till late.
- The Council trusted the Wheways and they stick two fingers up.
- On the 16th of January a man trespassed on the property and Mr McDowell told him to go away but he came back 2 hours later to have another go. The matter was reported to the Police.
- Mr McDowell said that the noise really affects family life and it is ridiculous how he is being portrayed by the Proprietor. The new client profile is an absolute joke.

Mr McDowell's representations lasted 5 minutes.

The Chairman referred to the list of proposed conditions provided by the applicant to consider if the Sub-Committee were minded to grant the Licence, but she reminded those present that the Sub-Committee did have the power to remove the Licence. The Chairman said this would affect Mr and Mrs Wheway's livelihood and she would not wish to do that but sometimes needs must.

In response to a query from The Chairman regarding the proposed conditions, Ms Ashton explained that the 22.30 restriction mentioned in the current conditions relates to the rear garden and condition 1 of the proposed condition relates to a sunken area at the rear of the pub which is the smoking shelter and not currently controlled. The proposed conditions have been devised and agreed upon with the Premises Licence Holder to minimise the disturbance. It is down to the premises management to make sure these conditions are complied with. K Ashton drew attention to proposed conditions 6. She informed that the police were at the meeting just to observe. The Police did not make representations. The concerns have been raised and passed on to the Premises Licence Holder. When the review was lodged it was specific about the noise at the rear of the premises and one of the measures proposed by the Premises Licence Holder is to move people to the front of the premises after 00.00 hours and it is for them to explain how they intend to control people at the front of the premises because the police are concerned and have indicated that should there be any trouble they will call for a Review.

Councillor Taylor said he thought that specific restrictions were made on the smoking area and the rear garden. He said he was aware that they are two separate areas and

it is the smoking area that is referred to in condition 1 that states that “No drinks shall be taken into the rear smoking area beyond 22.30 on Fridays and Saturdays” and reiterated the Chairman’s opinion that this condition is already in existence.

Ms Ashton clarified that the current condition refers to the rear garden area and condition 1 refers to the immediate area at the rear of the premises, referred to as the smoking shelter, and was not included in the current conditions, which means that currently drinks can be taken to the smoking shelter after 22.30.

The Chairman queried if the smoking shelter had been adapted properly.

Mrs King replied that this was a matter still being sorted out with the Premises Licence Holder. It involves building regulations and structural issues. Planning permission was granted some time ago but the planning conditions were not complied with.

The Chairman said that the Sub-Committee did not want to remove the licence but the problems go right back to 2005 and unless these issues are reined in substantially the Licence may have to be removed. The Chairman said she would like to see agreement reached on cutting back the hours that the smoking area is used.

Mr Jones responded on behalf of the Premises Licence Holder. He said that the suggested transgression of the planning conditions had only reared its head recently. The facts are that the smoking area was constructed at the behest of the Landlord based upon agreed plans and was therefore not the responsibility of Mr and Mrs Wheway. They have only recently been told that the way in which the shelter has been erected minimally transgresses the planning consent by having too much brickwork. He said the Chairman had not seen the area, whereupon Councillor Taylor observed the Sub-Committee saw photos at the last meeting. Mr Jones added that the beer garden is at the furthest point and then it was important to realise that the smoking shelter is in a sunken area of the terraced garden; it has a slate roof and was built in accordance with planning permission. The suggestion that planning law has been flouted is vehemently rejected.

The Chairman said that the Planning application was granted with the conditions in 2007, with plenty of time to comply.

Mr Jones confirmed that conditions were attached and one of them referred to the smoking area when it was the beer garden that was to be, and had been, closed at 10.30pm. Any confusion is not of Mr and Mrs Wheway’s making.

Councillor Taylor asked for clarification on whether the smoking area was just for smoking rather than for smoking and drinking.

Mr Jones responded and said that one of the conditions attached to the planning permission was that the smoking shelter could only be used up until 10.30pm which meant that the only place for people to smoke was at the front of the premises. A change was made 2 or 3 years later because the police preferred people to smoke at the back of the premises rather than the front and this meant people could smoke and drink in the smoking area until closing time. The confusion arises because it was only recently discovered that the planning condition had not been lifted when the Licence was changed.

There was disagreement between Mr Wheway and Councillor Taylor about whether drinking was ever permitted in the smoking area after 10.30pm.

Mr Wheway stated there was no drinking permitted at the front.

Ms Ashton clarified that two of the conditions attached to the Licence, outlined on page 41 of the agenda under the Prevention of Public Nuisance, state:

- Patrons will be required to leave the beer garden and return to the bar area at 22:30 hours.
- Smokers will be allowed to access only the sunken area of the garden after 22:30 hours.

Ms Ashton said that as the conditions stand, they do not specifically restrict drinking in the sunken area and this needs to be addressed from an enforcement point of view.

Mrs King confirmed that she had a copy of the Planning Permission from 2007 and it would appear that the Planning Officers also have a similar confusion over the beer garden and the smoking area and the closing times and according to the conditions Mr and Mrs Wheway have not breached what is classed as their Planning Permission. The concerns expressed have been whether the smoking shelter complies with the smoking legislation that comes under the Health Act. This now highlights that the planning conditions attached to the planning consent are inappropriate for the way in which the premises have and will be run. Mr and Mrs Wheway have been informed that on conclusion of today's meeting they should resubmit a planning application so that all is consistent. The position is clear on site, but the terminology is confusing.

Councillor Taylor asked if he could clarify whether the recording was from Mr McDowell's back bedroom and, on being told that this was correct, stated that the noise problems at the front of the premises had been addressed on the previous occasion by the smoking area at the back. Councillor Taylor added that Mr McDowell knew he was moving next door to a pub and that it was a place where people go to have fun by definition. Councillor Taylor said he was interested to hear the control of noise was effected by door staff, as door staff had to control people round the doors and not so much the noise. Councillor Taylor added that there needed to be a meeting of minds on what is affecting Mr McDowell's quality of life and what the pub management is doing that aggravates the situation.

Mr McDowell reiterated his concerns about the control outside on the basis people could move off to collect taxis and vomit on the business side of the pub. Mr Wheway does nothing and does not exercise control over drinking. After 1.30 am there are people hanging around and Mr McDowell added he only gets to sleep around 2 am. The doorman has gone by 1.00 am and should be there up to 1.45 am.

Mr Jones stated that this matter concerned noise nuisance at the rear of the premises. There had been no other representations apart from Mr and Mrs McDowell's. There is no suggestion of crime/disorder problems at the front of the premises and no representations from the Police. There is no material to suggest this is a lingering problem. Problems at the front of the premises have been successfully dealt with and Mr Jones asked that Mr Wheway be given the opportunity to respond to Mr McDowell's personal criticisms.

Mr Wheway said that he and his wife met with officers last spring to respond to the issues highlighted by Mr McDowell, especially in regard to moving people on after closing time. He said this was not an easy thing to do, despite having a good relationship with his regular customers. Dispersal is carried out in a friendly but professional manner. The neighbours were invited to a meeting to talk about these

issues but no neighbours turned up to the meeting. Mr Wheway said he would determine from this that neighbours thought he was doing a good job.

The Chairman asked Mrs King if the premises would be revisited to reset the noise limiter.

Mrs King responded that this has been proposed by Mr Jones and the noise limiter will be reset because the layout within the pub has been changed and the location of the speakers will determine the positioning of the noise limiter. This will be in conjunction with visiting Mr McDowell's house to ensure that the levels of music won't be a nuisance in the neighbouring property.

Councillor Taylor stated that, as Mr Jones had indicated, the Sub-Committee are being asked to look at the level of disturbance from noise at the rear of the property as picked up in recordings in the neighbour's back bedroom. The Sub-Committee was not being asked to address fights outside or how people were moved on. It is already established that the rear garden is closed from 10.30pm. The smoking area is an area where no drinks will be taken after 10.30pm. Councillor Taylor wondered about limiting the number of people in the smoking area to 5 and said that the planning situation and smoking area itself needed to be sorted out, as it was clear what was required. Whilst trying to be fair to both sides, he felt 10 people in this area is a lot and asked if perhaps it was too many as this is the area where the noise was recorded.

Mrs King said that discussions had taken place with Mr and Mrs Wheway and Mr Jones about the numbers permitted in the smoking area but this applied to the front of the premises to the right of the building which is further away from Mr and Mrs McDowell's house.

Mr Jones commented that the rear smoking area is quite a large structure and will hold many more than 10. He said he took the point that the issue is the noise emanating from the rear of the property but the proposed conditions include a condition that the smoking area would shut at midnight and then the patrons who still want to smoke will do so out at the front of the pub. This is a limited space and therefore an area will be cordoned off and closely supervised until closing time. There was not a proposal to limit the numbers in the rear smoking area but it has been pointed out that no drinks should be taken out to the smoking area and this may address the problems to some extent.

Councillor Sutton referred to the noise generated from music. He asked Mrs King if a noise limiter can solve that issue or should the Licensee be considering acoustic insulation too.

Mrs King replied that the previous history had involved noise nuisance from amplified music. The George has undertaken a lot of acoustic work including work on the boundary wall with Mr and Mrs McDowell's property. When the noise limiter is set there is an officer in the public house and another in Mr and Mrs McDowell's property so that the device can be set at an appropriate level. However the limit is set to avoid nuisance and one would not expect silence. The majority of noise limiters do work comfortably when they are managed correctly.

The Chairman asked Mr Jones to clarify proposed condition 7 referring to the maximum capacity of the smoking area.

Mr Jones said that until 10.30pm there will be no maximum but after that time it is recognised that it would be prudent to cap the numbers. However, given the roof structure and dynamics, 10 would be a sensible number to opt for.

Councillor Sutton wanted this lowered to 8 maximum.

Councillor Taylor said he wanted to reach an amicable conclusion and both parties would need to give a bit. He said the music depended on the management of the noise limiting device and that he would agree to a cap of 10 rather than 8 on the condition that the garden closes at 10.30pm and from 10.30pm the smoking area will be open for smoking only, with no drinking, and that each party be respectful of each other by allowing the fun, but keeping the noise to a minimum.

Councillor Sutton referred to Condition 1 and asked why the restrictions on taking drinks to the rear smoking area beyond 10.30pm was limited to Fridays and Saturdays and any other times when regulated entertainment is taking place. He felt the restrictions should apply 7 days a week.

Councillor Taylor said the Review was to address noise at the rear as this was the complaint and one could not legislate for the "what if".

Mr Jones said that the condition specified Friday and Saturday because there had been no representations to indicate problems on other days of the week.

Ms Pope clarified that it is the noise nuisance at the back of the premises that was being dealt with and there had to be evidence for any decision, which needed to address the representations made.

Mrs King observed that there was a danger of pushing the problem to the front. The premises close at midnight through the week so people will be using the outside front area for an hour and a half every day of the week, whereas at the moment only Saturdays are being considered.

Mr Wheway referred to Ms Pope's advice and said that there had been no issues on week days and it was unfair to penalise the regulars who come in during the week to enjoy a drink and smoke after their day's work.

Mr McDowell stated that there had been diary sheet entries and recordings for some Sunday evenings when there was singing of songs after football coverage.

Ms Pope said Mr Jones or Mr Wheway should have the opportunity to respond.

Mr Jones stated that there was no regulated entertainment on Sundays. A blanket condition would be a sledge hammer to crack a nut.

The Chairman suggested the inclusion of Sundays into the conditions as well as Bank Holidays and Public Holidays.

Mr Jones nodded his agreement.

The Chairman then referred to the door supervisors that were not on duty at the specified time of 8.00pm.

Mr Jones said Mr Wheway and his wife are both SIA qualified and are on the premises before 8pm and there was no recorded issue on the door before 9.00 pm. There was a different clientele before 9.00 pm.

The Chairman queried condition 4.

Mr Wheway said he accepted door supervisors usually operated the door, but their job was to operate both in the back area and on the door. Mr Wheway added he knew the door supervisors and they respected him.

Mr McDowell interrupted, whereupon Mr Jones stated his client was completely committed to making it work with the McDowells, adding that there had been zero crime and disorder despite one of their busiest Christmases, and with only small issues the previous Christmases and this took very strong management.

Mr McDowell said the garden was a concrete amphitheatre and Mr Wheway had not said once to his customers: please calm down/moderate your language. There were many recordings with customers saying "Hey, Mark": he was out there, doing nothing and socialising.

The Chairman then reassured Mr McDowell that Mr and Mrs Wheway now know that their licence is on the line. If things do not improve substantially, the Council cannot continue to have Review after Review. The task of this Committee is to reach an amicable settlement.

Mr Wheway reiterated his previous comment about the improvements over the last year and that now some local residents are good customers. The McDowell's had posted letters all around the area last time and this had affected the Council's previous decision. They had posted letters again this time but, apart from Mr McDowell, there were no representations from other parties. Mr Wheway added that he understood they had to work together and he had changed a lot.

Mr McDowell interrupted at this point and was asked to wait.

The Chairman went through each of the proposed conditions. Points were clarified and the conditions amended and conditions added accordingly. There was a particularly long discussion about the third condition on p.40 of the agenda and the proposed new condition 4.

Councillor Taylor asked about CCTV.

Mrs King said an assurance was needed that it was working.

Mr Wheway advised the Police had said he needed to upgrade it.

The Chairman read out new proposed wording.

There was extensive discussion about conditions 7 to 10.

The Chairman asked the Licensees if the conditions were clear.

Mr and Mrs Wheway indicated that they were clear. Mr Jones asked if there was a time limit for the changes to CCTV to be implemented.

The Chairman told him that the Licensees would have 14 days to implement those changes.

The Chairman asked all the interested parties in turn if they had anything else they wanted to add.

Mr McDowell said he had nothing to add and stated that the additional conditions provided some safeguards and, if they were used effectively and correctly, they should work.

Mr Jones on behalf of Mr and Mrs Wheway said that the amended additional conditions do seem to address the problems mentioned by Councillor Taylor and Mr and Mrs Wheway will do their utmost to ensure compliance because the sword of Damocles would hang over them to avoid a Review. He said that it will require good will on all sides.

Mrs King on behalf of Environmental Health said she had nothing to add.

Councillor Taylor said he had taken note of the oral and written evidence and the lengthy discussions and while the situation was a bit of a mess, he was happy to go ahead. The Sub-Committee had answered the question before it and had tried to be fair to both parties. There was only one issue, namely the noise at the rear. The terms of the Licence were specific and the Licensees should stick to them. This was ever so easy to say when there were no distractions and the mind was concentrated. Councillor Taylor added that he did not want the Police and Environmental Health out at the front and the McDowells kept awake, although this did not detract from Mr and Mrs Wheway's responsibility to uphold the terms and conditions as added to. All were human and might not agree but should respect each other.

Councillor Sutton said he was minded to continue with the Licence with the amended conditions and that he previously reviewed this Licence in 2008 when the Committee concluded with a strong message that the Licence holder should work closely with all parties to ensure that there was no further nuisance. He said he was disappointed to see another Review. There is now a very clear message that the Sub-Committee did not want to see the Licensees back again. Pubs were a dying breed and he did not want to see another pub closing and he hoped they would work closely with all interested parties to achieve a trouble free environment.

The Chairman said that the Sub-Committee were happy to accept the additional conditions and hope they would be adhered to as the Sub-Committee would not keep making allowances and enough was enough. The Chairman wished both parties well.

The Chairman added that Mrs King would set the noise limiting device to allow Mr and Mrs McDowell a peaceful evening, with no further repercussions regarding the back area.

Agreed:

The Licensing of Alcohol and Gambling Sub-Committee, having had regard to Section 182 of the National Guidance and Dacorum Borough Council's own Licensing Policy and the four Licensing Objectives of the Licensing Act 2003 and having taken into account all oral and written representations, in accordance with the voting and reasoning indicated above, agree to accept the additional conditions as set out below and allow Mr and Mrs Wheway to keep their licence.

Additional Conditions in respect of the George Public House, Berkhamsted.

1. No drinks shall be taken to the rear smoking area beyond 22:30 on Fridays, Saturdays, Sundays, Bank and Public Holidays and at any other time when regulated entertainment is taking place. Patrons will only be allowed to leave the premises to use the supervised rear smoking area to smoke and will not be encouraged to remain within the smoking shelter.
2. The heaters within the smoking shelter shall not be operated beyond 22:30 at any time when regulated entertainment is taking place.
3. The supervised rear smoking area shall be closed to patrons and staff at 12 midnight on Fridays and Saturdays.
4. Two SIA qualified door supervisors shall be on duty from 20:00 hours on Fridays and Saturdays, and when regulated entertainment is taking place, to the time the premises are closed to the public, to prevent admission of undesirable members of the public and to control dispersal on the street, outside the door, and for the latter purpose the SIA qualified staff will remain on the street for 30 minutes after closing time. One door supervisor shall be specifically controlling and managing the rear door to the rear supervised smoking area as well as managing the patrons within the rear smoking area to ensure that any disturbance is minimised.
5. The rear double doors to the rear smoking area shall be kept closed from 22:30 on Fridays, Saturdays, Sundays, Bank and Public Holidays and any other day when regulated entertainment is taking place and patrons shall only access that area via the single rear fire door.
6. On Friday night/Saturday morning, between midnight and 01:00 hours there shall be no re-entry into the front of the premises by patrons who have left the designated front smoking area as shown in red on the plan attached to the operating schedule.
7. After 22:30 hours on Fridays, Saturdays, Sundays and Bank and Public Holidays the maximum capacity of patrons permitted within the rear supervised smoking area shall not exceed ten.
8. The designated front smoking area as shown in red on the plan attached to the operating schedule may only be used between 00:00 hours and 01:00 hours on a Friday night/Saturday morning, and no drinks shall be taken to the designated front smoking area. The maximum capacity of patrons permitted within the designated front smoking area shall not exceed 10.
9. The noise limiter device shall be set to a level agreed by the Environmental Health Department so as to ensure no nuisance is caused to the neighbouring property and all regulated or amplified entertainment shall be played through the limiter. The limiter shall be set with the rear doors to the premises closed and the front doors and windows open.
10. The Premises Licence holder shall provide at least 14 days' written notice of any proposal to move speakers and any other noise equipment and written approval from Environmental Health will be required prior to any relocation of any of the equipment.

11. The Premises Licence Holder shall ensure that CCTV equipment is fully operational and working and positioned to the satisfaction of the Police, by and at all times from 9th February 2012, particularly to the rear of the premises, and that it is regularly monitored. Recordings shall be kept for 30 days and made available to the Police and Licensing Authority upon request.

The meeting finished at 4.35 pm