

**Agenda Item No: 1 - Summary of Report**

**Licence Reference 16/00173/LAPRE**

**Report To: LICENSING SUB – COMMITTEE  
(UNDER THE LICENSING ACT 2003)**

**Date: 12 MAY 2016**

**Report Title: HARRIETSHAM VILLAGE HALL, CHURCH ROAD,  
HARRIETSHAM, KENT, ME17 1AP**

**Application for: A premises licence under the Licensing Act 2003**

**Report Author: Lorraine Neale**

- Summary:**
1. The Applicant – Harrietsham Village Hall Trust
  2. Type of authorisation applied for: A premises licence under the Licensing Act 2003.
  3. Current and Proposed Licensable Activities and hours: The premises does currently have a premise licence ( Appendix A) The premises are in the same location but the applicant wishes to add alcohol, late night refreshment and vary the hours and have done this by means of a new application rather than varying the existing licence.

			Current licence	New application
A	Plays	Mon - Sun	8.30 – 00.00	08.00 – 23.00 indoors
B	Films	Mon - Sun	8.30 – 00.00	08.00 – 23.00indoors
E	Live Music	Mon - Sun	8.30 – 00.00	08.00 – 23.00 indoor and outdoors
F	Recorded Music	Mon - Sun	8.30 – 00.00	08.00 – 23.00indoors and outdoors
G	Performances of dance	Mon - Sun	8.30 – 00.00	08.00 – 23.00indoors
H	anything of a similar description to that falling within (e), (f) or (g)	Mon - Sun	8.30 – 00.00	N/A
I	Late Night Refreshment	Fri & Sat	N/A	23.00 – 00-00 Indoors and outdoors
J	Supply of Alcohol	Mon - Sun	N/A	08:00 – 00-00 on licence only
L	Opening Hours	Mon - Sun	N/A	06:00 – 00-00

**N.B** The original application was submitted on the 22 January 2016 but due to errors on the public notice displayed at the premises and the advert placed in a local publication the applicant was advised that they would need to restart their 28 day consultation. The applicant made some amendments (Appendix B) to the application prior to commencing the new 28 day consultation period which ran from 25.03.16 – 21.04.16. Also under Regulation 11 of the Licensing Act 2003 (Hearings) Regulations 2005 the authority has extended the time for holding this hearing in the public interest by 9 working days in order to enable a Licensing Committee to be appointed for the new municipal year following the election on 5th May 2016 and Annual Meeting on 21st May 2016. The first available date to hold a sub committee hearing being 3rd June 2016.



**Affected Wards:** Harrietsham and Lenham

**Recommendations:** The Committee is asked to determine the application and decide whether to grant the premises licence.

**Policy Overview:** The decision should be made with regard to the Secretary of State's Guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and that such departure be supported by proper reasons.

**Financial Implications:** Costs associated with processing the application are taken from licensing fee income.

**Other Material Implications:** **HUMAN RIGHTS:** In considering this application it is appropriate to consider the rights of both the applicant and other parties, such as “**responsible authorities**” and/or “**other persons**” (objectors). The procedure for determining licences has a prescribed format to ensure fair representation of the relevant facts by all parties.

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

**Background Papers:** Licensing Act 2003  
DCMS Guidance Documents issued under section 182 of the Licensing Act 2003 as amended  
Maidstone Borough Council Statement of Licensing Policy

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## **Agenda Item No. 1**

**Report Title: HARRIETSHAM VILLAGE HALL, CHURCH ROAD,  
HARRIETSHAM, KENT, ME17 1AP**

**Application to:** For a premises licence under the Licensing Act 2003. (Appendix B).

### **Purpose of the Report**

The report advises Members of an application for a Premises Licence to be granted under the Licensing Act 2003, made by Harrietsham Village Hall Trust, in respect of the premises Harrietsham Village Hall, Church Road, Harrietsham, Kent, ME17 1AP, (Appendix B) in respect of which 2 objections were received from other parties, following provision of information one was withdrawn and one remains subject to this hearing (Appendix D).

### **1. Issue to be Decided**

Members are asked to determine whether to:

- (1) grant as applied for
- (2) grant with conditions
- (3) exclude any licensable activity
- (4) reject the DPS
- (5) or reject the application

### **Background**

- 2 The relevant sections are Part 3 S16 -24 of The Licensing Act 2003 and section 4 of The Licensing Act 2003 in particular the Licensing Objectives:
  - The prevention of crime and disorder;
  - Public Safety
  - The prevention of public nuisance; and
  - The protection of children from harm
3. The application has been correctly advertised in the local press and notices displayed at the premises for the required period.
4. There are no representations received from responsible authorities.
5. There is one representation from other parties.
6. The table below illustrates the relevant representations which have been received

<b>Responsible Authority /Interested Party</b>	<b>Licensing Objective</b>	<b>Associated Documents</b>	<b>Appendix</b>
The Lingard Family	Public Nuisance Children from Harm	E-Mail dated...	D

The objection is in summary that there will be a lack of consideration to the residents in respect of noise and the quality of life for local residents, specifically children will be disturbed. The supply of alcohol at the premises may lead to nuisance and create other issues such as the requirement to clear up after drunken people who have been sick.

- 7. The premises has a current licence, Appendix A. The current licence holder is Harrietsham Village Hall Trust Committee.**
- 8. The current licence hours are as per the licence attached at appendix A and set out at 3 of the summary above. A Temporary event notice is applied for, when events take place at the premises that require alcohol to be sold or supplied.**
- 9. Members are advised that applications cannot be refused in whole or in part, or conditions attached to the licence unless it is appropriate to do so to promote the licensing objectives.;**
- 10. The Operating Schedule submitted by the Applicant has addressed the licensing objectives in the following manner:**
  - a) General – all four licensing objectives:**

No selling of alcohol to underage people. Strong management. All trustees and committee members to be made aware of the premises licenses and the resulting requirements. CCTV installed.
  - b) The prevention of crime and disorder:**

Events are managed adequately and risk assessments done. A notice to be displayed indicating the terms of the premises licence and the hours within which licensable activities can occur. CCTV installed.
  - c) Public Safety:**

CCTV installed, adequate lighting, ID checking system in place and good maintenance of the premises.
  - d) The prevention of public nuisance:**

Local residents are considered and informed about any outdoor music events going on later than 23:00. All waste to be removed by hirers of the hall.
  - e) The Protection of children from harm:**

ID checking system in place
- 11. Relevant sections of The Guidance issued under section 182 of The Licensing Act 2003;**

## **Chapters 8 (8.42 onwards) & 9 Premises Licences & Determining Applications**

### **Chapter 10 Conditions**

#### **Relevant policy statements contained in the Licensing Authority's Statement of Licensing Policy:**

Relevant policy statements contained in **the Licensing Authority's Statement of Licensing Policy:**

**17.19 – 17.22 Prevention of Public Nuisance**

**17.23 – 17.26 Protection of Children from Harm.**

#### **Prevention of Public Nuisance**

The applicant will be expected to detail any appropriate and proportionate steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises.

The applicant will be expected to demonstrate that they have considered the following and included steps to prevent public nuisance:

- (i) Proximity of local residents to the premises
- (ii) Licensable activities proposed and customer base
- (iii) Hours and nature of operation
- (iv) Risk and Prevention of noise leakage from the premises from equipment, customers and machinery
- (v) Prevention of noise from customers leaving the premises and customer pick up points outside premises and from the Car Park.
- (vi) Availability of public transport to and from the premises
- (vii) Delivery and collection times and locations
- (viii) Impact of external security or general lighting on residents.
- (ix) History of management of and complaints about the premises.
- (x) Applicant's previous success in preventing Public Nuisance.
- (xi) Outcomes of discussions with the relevant Responsible Authorities.
- (xii) Impact of location, noise and contamination from outside smoking areas on neighbours and other customers
- (xiii) Collection of litter arising from the premises

Steps to prevent public nuisance may include a range of options including noise limiting devices, sound insulation, wind down periods, acoustic lobbies, management of smoking areas etc.

Steps will differ depending on the individual premises and activities and it is for the applicant to ensure that reasonable, effective and appropriate steps are included within the operating schedule.

### **Protection of Children from Harm.**

Applicants will be expected to detail any appropriate and proportionate steps to protect children at the premises from any harm. The Licensing Authority recognises the right of licensees (serving alcohol) to allow accompanied children into their premises. The Licensing Authority would not seek to restrict access by children (above that specified in the Act) unless it is necessary for the prevention of physical, moral or psychological harm.

Steps to protect children from harm must be carefully considered for inclusion where:

- (i) There is entertainment or services of an adult nature provided.
- (ii) There have been previous convictions for under age sales of alcohol.
- (iii) There has been a known association with drug taking or dealing.
- (iv) There is a significant element of gambling on the premises.
- (v) There is a presumption that children under 18 should not be permitted entry such as to nightclubs (apart from when specific events are held for under 18's).
- (vi) Outcomes of discussions with relevant Responsible Authorities suggest such steps are applicable.

Nothing in the Licensing Act prevents licensees from excluding children from a licensed premises and no condition can be added to require the admission of children.

Where there are no matters that give rise to concern in respect of children at premises the Licensing Authority would expect to see the relevant box on an application form completed to specify NONE.

## **12. Options**

Legal options open to members -

- 1) Grant the licence subject to such conditions as are consistent with the operating schedule accompanying the application.
- 2) grant the licence with MODIFIED conditions or to exclude a licensable activity.
- 3) refuse to specify a person in the licence as designated premises supervisor
- 4) REJECT the whole or part of the application

Members of the Licensing Act 2003 – Licensing Sub – Committee are reminded of their duty under section 17 of the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the Licensing Authority's responsibility to co – operate in the reduction of crime and disorder in the Borough

Section 17 of the Crime and Disorder Act 1988 states:

"Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely

effect of the exercise of those function on, and the need to do all that it reasonably can prevent, crime and disorder in its area”.

## 11. Implications Assessment

The decision should be made with regard to the Secretary of State’s Guidance and the Council’s Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from either the Guidance or the policy clear and cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal/challenge is increased.

## 12. Human Rights

While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 – Right to respect for private and family life
- Article 1 of the First Protocol – Protection of Property
- Article 6(1) – Right to Fair Hearing
- Article 10 – Freedom of Expression

The full text of each Article is given in the attached Appendices

## 13. Conclusion

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

## 14. List of Appendices

Appendix A	Current Licence
Appendix B	Application Form
Appendix C	Plan of Premises
Appendix D	Other parties representation
Appendix E	Plan of area
Appendix F	Human Rights Articles
Appendix G	Order of Proceedings

## 15. Appeals

**The applicant or any other person(objector) may appeal the Licensing Act 2003 Sub Committee’s decision within 21 days beginning with the day on which the Appellant is notified. All/any appeals must be lodged with the Magistrates’ Court. Parties should be aware that they MAY incur an Adverse Costs Order should they bring an appeal.**

Contact: Email:	<b>Senior Licensing Officer</b> <a href="mailto:lorryneale@maidstone.gov.uk">lorryneale@maidstone.gov.uk</a>
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