

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

**Licence Reference** MAID0185/LPRM/0611

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

**Date:** 14<sup>TH</sup> NOVEMBER 2011

**Report Title:** THE BULL INN  
LINTON HILL  
LINTON  
MAIDSTONE  
KENT  
ME17 4AW

**Application to:** Vary a Premises Licence under the Licensing Act 2003

**Report Author:** Lorraine Neale

**Summary:**

1. The Applicant – Shepherd Neame Ltd
2. Type of authorisation applied for: To vary a Premises Licence under the Licensing Act 2003. (Appendix A)
3. To remove the condition on live music – any outdoor performances will cease by 20:00 and replace with outdoor performances will cease by 23:00 and to allow dancing outside until 23:00 to enable the premises to hold weddings and functions in a marquee in the garden.
4. Current and Proposed Licensable Activities and hours:

The licensable activities of the current licence are as follows:-	The proposed licensable activities for the varied licence are as follows:-
<b>E) Live music</b> Monday to Sunday 10:00 - 23:00 (Indoors) <b>Any outdoor performances will cease by 20:00</b> New Years Eve 10:00 – 01:00	<b>E) Live music</b> Monday to Sunday 10:00 - 23:00 (Indoors & Outdoors) <b>Any outdoor performances will cease by 23:00</b> New Years Eve 10:00 – 01:00 (Indoors Only)
<b>F) Recorded music</b> Monday to Sunday 10:00 - 01:00 (Indoors) New Years Eve until 01:00 Discos will cease at 00:00	<b>F) Recorded music</b> Monday to Sunday 10:00 - 01:00 (Indoors) New Years Eve until 01:00 Discos will cease at 00:00
<b>G) Performances of dance</b> Monday to Sunday 10:00 - 00:00 (Indoors) <b>Outdoors only until 20:00</b> New Years Eve until 01:00	<b>G) Performances of dance</b> Monday to Sunday 10:00 – 00:00 (Indoors only) <b>Outdoors only until 23:00</b> New Years Eve until 01:00 (Indoors only)
<b>J) Facilities for dancing</b> Monday to Sunday 10:00 - 00:00 (Indoors & Outdoors) New Years Eve until 01:00	<b>J) Facilities for dancing</b> Monday to Sunday 10:00 - 00:00 (Indoors & Outdoors) New Years Eve until 01:00
<b>L) Late Night Refreshment</b> Monday to Sunday 23:00 - 01:00 (Indoors only) New Years Eve until 23:00 - 05:00	<b>L) Late Night Refreshment</b> Monday to Sunday 23:00 - 01:00 (Indoors only) New Years Eve until 23:00 - 05:00
<b>M) Sale or Supply of Alcohol</b> Monday to Sunday 10:00 - 00:00 (On & Off Premises) From the end of permitted hours on New Year's Eve to the start of permitted hours on New Years Day	<b>M) Sale or Supply of Alcohol</b> Monday to Sunday 10:00 - 00:00 (On & Off Premises) From the end of permitted hours on New Year's Eve to the start of permitted hours on New Years Day
<b>O) Opening Hours</b> Monday to Sunday 10:00 - 01:00	<b>O) Opening Hours</b> Monday to Sunday 10:00 - 01:00

**Affected Wards:** Coxheath and Hunton

**Recommendations:** **The Committee is asked to decide whether to vary the terms of the 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 necessary to consider the rights of both the applicant and other parties, such as “**responsible authorities**” and/or “**interested parties**” (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:** THE BULL INN, LINTON HILL, LINTON, MAIDSTONE, KENT, ME17 4AW

**Application for:** To vary a premises licence granted under the Licensing Act 2003

### Purpose of the Report

The report advises Members of an application for a Premises Licence to be varied under the Licensing Act 2003, made by Shepherd Neame Ltd, in respect of the premises The Bull Inn, Linton Hill, Linton, Maidstone, Kent, ME17 4AW in respect of which 16 representations (Appendix C) have been received from Interested Parties. There have been no representations received from a Responsible Authority.

### Issue to be Decided

Members are asked to determine whether to grant or reject the application.

### Background

1. The relevant sections are Part 3 ss 16-19, 23 & 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
2. The application has been correctly advertised in the local press and a notice displayed on the premises for the required period.
3. 16 representations were received from Interested Parties.
4. The table below illustrates the relevant representations which have been received

Responsible Authority/Interested Party	Licensing Objective	Associated Documents	Appendix
Micheal Druce	Public Nuisance	Letter	C
Mr J McKenzie	Public Nuisance	Letter & Petition	C
D Sawyer	Public Nuisance	Letter	C
Mrs R McKenzie	Public Nuisance	Petition	C
Mr M L Hubbs	Public Nuisance	Petition	C

Mr & Mrs Cross	Public Nuisance	Petition	C
Mrs I Druce	Public Nuisance	Petition	C
Mr & Mrs Cooper	Public Nuisance	Petition	C
Mrs D Nichol	Public Nuisance	Petition	C
Mr & Mrs Maskel	Public Nuisance	E Mail & Petition	C
Miss K Studd	Public Nuisance	Petition	C
M Harman	Public Nuisance	Petition	C
D Martin	Public Nuisance	Petition	C
M Waller	Public Nuisance	Petition	C
Mrs M Studd	Public Nuisance	Petition	C
G Johnson	Public Nuisance	Petition	C

The interested parties believe that extending the time to 23:00 for any outside function would adversely affect the peaceful enjoyment of their homes and possessions.

The current licence has the following conditions attached to the operating schedule:

### **General**

At the time the Premises Licence has been granted and whilst it is in force, the DPS in situ must have completed and attained the following qualifications;

Basic Food Hygiene Course  
National Certificate for Personal Licence Holders  
Cellar Management Course

### **Prevention of Crime and Disorder**

No persons shall be admitted to, or allowed to remain on the premises who are or are suspected to be under the influence of, or in possession of, any illegal/illicit substance.

### **Public Safety**

Health and Safety Risk assessments shall be carried out prior to the Premises licence being effective and a copy retained for inspection upon request by an officer of the local Licensing Authority, Police or Fire Authority or other relevant person.

Fire Risk assessments shall be carried out prior to the Premises Licence being effective and a copy retained for inspection upon request by an officer of the local Fire Authority, Licensing or Police Authority or other relevant person.

On occasions of special events where audience members exceed normal limits, there shall be adequate staff/stewards available to ensure safety of patrons. The number of staff/stewards shall be near to or equivalent to:- One member of staff per one hundred persons or part thereof.

## **Public Nuisance**

Disposal of waste bottles into external receptacles where the noise will be audible to neighbouring properties must not occur between 23.00 and 10.00

In the absence of adequate daylight, the lighting in any area, in which the public or club members and guests are present, shall be fully operational at all times.

## **Protection of Children From Harm**

No person under the age of 18 shall be permitted on the premises unless accompanied by an adult.

5. **Members are advised that applications cannot be refused in whole or in part, or conditions attached to the licence unless it is necessary to do so to promote the licensing objectives.;**
6. **The Operating Schedule submitted by the Applicant has addressed the licensing objectives in the following manner:**

### **a) General – all four licensing objectives**

*ALL CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE WILL REMAIN THE SAME*

### **b) The prevention of crime and disorder**

*ALL CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE WILL REMAIN THE SAME*

### **c) Public safety**

*ALL CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE WILL REMAIN THE SAME*

### **d) Prevention of public nuisance**

*ALL CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE WILL REMAIN THE SAME AND THE DESIGNATED PREMISES SUPERVISOR WILL LIASE WITH NEIGHBOURS IF THERE IS A PROBLEM WITH THE OUTBREAK OF NOISE.*

### **e) The protection of children from harm**

*ALL CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE WILL REMAIN THE SAME*

9. Relevant sections of **The Guidance issued under section 182 of The Licensing Act 2003;**

## **Chapters 8 & 9 Premises Licences & Determining Applications**

### **Chapter 10 Conditions Annex D**

### **part 4 Pool of Conditions relating to Public Nuisance**

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

## **22. Prevention of Public Nuisance**

Licensed premises can cause adverse impacts on communities through public nuisance. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from any nuisance caused by the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

The Licensing Authority will interpret 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

## **Concerns**

When addressing the issue of prevention of public nuisance, the applicant should consider those factors arising from the premises or the activities of their customers within the vicinity of the premises that may impact on the likelihood of public nuisance. These may include:-

- The location of the premises and their proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship.
- The hours of operation, particularly if between 23.00 and 07.00.
- The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises.
- The design and layout of premises and in particular the presence of noise limiting features.
- The occupancy capacity of the premises.
- Last admission time.
- The steps the applicant has taken or proposes to take to ensure that staff leave the premises quietly.
- The steps the applicant has taken or proposes to take to prevent disturbance by patrons arriving or leaving the premises.
- Whether routes to and from the premises, on foot or by car or service or delivery vehicles, pass residential premises within the vicinity of the Premises.
- Whether other measures have been taken or are proposed such as the use of CCTV or the employment of registered door supervisors.
- The arrangements made or proposed for parking by patrons, and the effect of this parking on local residents.
- The likelihood of any violence, disorder or policing problems arising if a licence were granted.
- Whether taxis and private hire vehicles serving the premises are likely to disturb local residents.
- The siting of external lighting, including security lighting that is installed inappropriately.
- Whether the operation of the premises would result in increased refuse storage or disposal problems or additional litter in the vicinity of the premises and any measures or proposed measures to deal with this.
- The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licensees.

## **Additional Steps**

The following examples of additional steps are given as examples for applicants to consider in the preparation of their Operating Schedule, having regard to their particular type of premises or activities:-

- Effective and responsible management of premises.
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance.
- Control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries.
- Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics).
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
- Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises.

- The incorporation of measures for ensuring the safe and swift dispersal of patrons away from premises and events without causing nuisance or public safety concerns to local residents.
- Effective ventilation systems to prevent nuisance from odour.

N.B. Where relevant representations are received which the Licensing Sub Committee consider material particular consideration will be given to the impact on residential amenity of proposals for the provision of late night refreshment where these are either located in, or encourage people to move through, residential areas.

## 10. **Options**

Legal options open to members -

- GRANT the licence subject to such conditions as are consistent with the operating schedule accompanying the application; MODIFIED to such extent as the Licensing sub-committee considers necessary for the promotion of the licensing objectives and any relevant mandatory condition
  - EXCLUDE from the licence any of the licensable activities applied for.
  - REFUSE to specify a person in the licence as premises supervisor
  - REJECT the application.
11. 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".

## 12. **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.

## 13. **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

#### 14. **Conclusion**

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

#### 15. **List of Appendices**

Appendix A	Application Form
Appendix B	Plan of Premises
Appendix C	Interested Parties Representations
Appendix D	Premise Licence
Appendix E	Plan of area
Appendix F	Human Rights Articles
Appendix G	Order of Proceedings

#### 16. **Appeals**

**The applicant or any interested party (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.**

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