

BABERGH DISTRICT COUNCIL

FROM: Head of Legal and Administrative Services

REPORT NUMBER **E146**

TO: LICENSING SUB-COMMITTEE

DATE OF MEETING 26 September 2005

LICENSING ACT 2003 – HEARING REPORT

1. SUMMARY

To determine an application under the 2003 Licensing Act made by:
Mr Michael Ernest Chaplin & Mrs Heather Angela Chaplin
in respect of:
Kings Head, Manningtree Road, STUTTON IP9 2SN

The hearing is to determine the variation element of the application only. The conversion element of the application (Part A of the form) is not subject to any hearing or consideration by the sub-committee as the Police have made no objection to the conversion during the statutory period. The entitlements of the conversion are protected rights and cannot be reduced by any determination made by the sub-committee in its determination of the variation element.

Existing conditions and restrictions under the Licensing Act 1964, and other enactments specified by the Secretary of State, carry across with the conversion on to the new premises licence, unless the variation seeks to amend or remove these.

2. RECOMMENDATIONS

2.1 The sub-committee must, having regard to the representations made, take such of the steps below (if any) as it considers necessary for the promotion of the licensing objectives:

- To grant the licence subject to conditions which are consistent with the operating schedule submitted by the applicant;
- To exclude from the scope of the licence any of the licensable activities that have been applied for;
- To refuse to specify a person in the licence as the premises supervisor;
- To reject the application.

Members of the sub-committee should note that they may, where it is deemed necessary and proportionate for the promotion of the licensing objectives, alter, omit or add new conditions within the applicants operating schedule.

The sub-committee is able to determine this application.

3. THIS APPLICATION

- 3.1 This application is made by Michael Chaplin and Heather Chaplin in respect of the Kings Head, Manningtree Road, STUTTON IP9 2SW. The named premises supervisor is Mr Duncan Darbyshire (the existing justices' licence holder).

The premises is a public house with one bar, dining area and beer garden. The premises has AWP gaming machines and cigarette vending machine.

The application is to simultaneously vary a conversion licence (justices' liquor licence) and seeks to extend hours during which licensable activities, existing and new, will take place on the premises.

The existing permitted hours for the premises are as follows:

Justices' licence 'permitted hours':

Monday to Saturday	(10:00hrs until 23:00hrs)
Sunday/Good Friday	(12:00noon until 22:30hrs)
Christmas Day	(12:00noon until 15:00hrs and 19:00hrs until 22:30hrs)
New Years Eve	Extension allowed from end of permitted hours until start of permitted hours on New Years Day

The hours and activities being proposed by the variation application are:

(a) 'Live music' (Box E – Indoors)

'Provision of facilities for entertainment of a similar description to that of music or dance' (Box K - Indoors)

Hours applied for: 10:00hrs until 23:00hrs (Monday to Saturday)
11:00hrs until 23:00hrs (Sunday)

(b) 'Recorded music' (Box F – Indoors)

Hours applied for: 10:00hrs until 00:00hrs (Monday to Saturday)
11:00hrs until 23:30hrs (Sunday)

(c) 'Supply of alcohol' (both ON and OFF the premises)

Hours applied for: 10:00hrs until 00:00hrs (Monday to Saturday)
11:00hrs until 23:30hrs (Sunday)

The applicants also propose that the opening hours of the premises be extended as follows (BOX O):

Hours applied for: 10:00hrs until 00:30hrs (Monday to Saturday)
11:00hrs until 00:00hrs (Sunday)

The above opening hours contain provision of 30 minutes after the cessation of alcohol sales for appropriate dispersal and drinking-up.

Seasonal and non-standard timings (including bank holidays)

By virtue of the conversion application, the applicant carries forward a general exemption allowing the premises to open from the closure of the premises on New Years Eve until the beginning of permitted hours on New Years Day as a 'grandfather right'.

Further to the above, the applicants propose that:

- An extra hour be added to the above standard timings proposed for the Friday to Monday of Bank Holiday weekends in May/Spring/Whitsun and August.
- An extra hour for the Thursday to Monday of Easter Bank Holiday weekend.
- An extra hour for Christmas Eve and Boxing Day.

The applicant has proposed various measures that they intend to take to promote the four licensing objectives, referred to in section Q of the application form. The measures proposed include:

- (a) Escape and exit routes kept free of obstruction
- (b) Exterior lighting and security lighting
- (c) Managed customer departure
- (d) Windows and doors kept closed after 22:00hrs (save for access and egress) whilst a performance taking place
- (e) Use of beer garden to cease at 23:30hrs
- (f) No unaccompanied children at any time

Some of the steps proposed may require further clarification by the applicant at the hearing. Please refer to the copy of the complete application attached as Appendix 1.

3.2 The application is attached as Appendix 1. The applicant has confirmed that advertisements required under the Act were published and displayed on the premises for 28 days. The applicant has confirmed that the following consultees, as Responsible Authorities, have received notice of the application.

RESPONSIBLE AUTHORITY	RESPONSE
1. Chief Officer of Police	
2. Local Fire Authority	
3. Health and Safety Executive/Local Authority for Health and Safety at Work Act	Comments only – no objection
4. Environmental Health	Comments only – no objection
5. Local Planning Authority	
6. Area Child Protection Committee	
7. Any other Licensing Authority	
8. Trading Standards	
9. Environmental Agency/British Waterways Boards/Maritime and Coastguard Agency	

3.3 Representations have also been received during the statutory period from the following interested parties:

- **R.H.Clarke & A.Clarke - 35 Cattsfield, STUTTON IP9 2SP**

A copy of any representations is attached as Appendix 2. Any responsible authority comments are attached for information and clarification purposes.

4. GUIDANCE AND POLICY CONSIDERATIONS

4.1 The sub-committee is referred to section 6 – ‘Hours of Trading’ and section 7 – ‘Conditions Attached to Premises Licences and Club Premises Certificates’, and also Annexes D to H, of Central Government Guidance in respect of this application.

4.2 The sub-committee is referred to sections 1, 6, 7, 9, 10 and 14 of the Council’s Statement of Licensing Policy in respect of this application.

5. THE ISSUE(S)

5.1 The Licensing Act 2003 introduces a new licensing regime. The four underlying objectives of the regime are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

These are the only grounds upon which an application may be refused, or if deemed necessary, conditions may be attached to a licence.

5.2 Members will note that the main issue here is:

- Balancing the interests of owners, employees, customers and neighbours of licensable premises.

6. PROCEDURE TO BE FOLLOWED AT HEARING

6.1 A copy of the ‘Procedure for Hearing of Application under the Licensing Act 2003 where a Representation/Objection is received’ is attached to the Agenda.

7. APPENDICES

- (a) Appendix 1 – Part B – Application together with premises plan
- (b) Appendix 2 – Representations
- (c) Appendix 3 – Site Plan showing location of Interested Party objectors.

8. BACKGROUND PAPERS REFERRED TO

None

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