

LICENSING COMMITTEE - LICENSING HEARING

04 June 2014 at 10.30 am
Council Chamber, Argyle Road, Sevenoaks

AGENDA

Membership:

Cllrs. Abraham, Clark and Walshe

(Composition: Each Sub-Committee will contain three Members of the Licensing Committee. Any member of the Licensing Committee may act as a substitute)

IMPORTANT INFORMATION

If an interested party (e.g. a parish or town council) has not made a "relevant representation" (section 18(6) and (7) of the Licensing Act 2003), it will not receive a notice of the hearing (Reg. 6(1) Hearings Regulations). The interested party will not, therefore be "a party to the hearing" (Reg. 2 Hearings Regulations). There will therefore be no right to address the hearing (Reg. 16 Hearings Regulations).

The above also applies to a Member i.e. if s/he does not make a "relevant representation" s/he will not be a "party to the hearing" and has no right to address the hearing unless appointed by "a party to the hearing" to assist or represent that party.

Would you please note that all the reports/information listed on this agenda are available from the Democratic Services Team on request (01732 227241). Alternatively you can make an appointment to view the information at the District Council Offices by contacting the Licensing Partnership Manager on 01732 227325.

- 1. Appointment of Chairman**
- 2. Declarations of interest.**
- 3. Exclusion of Press and Public**

Consideration of Exempt Information:

Recommendation: That, under section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting when considering Appendix A of the following report, on the grounds that likely disclosure of exempt information is involved as defined by Schedule 12A, paragraph 7 (Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime)

4. **The Portobello Inn, London Road, West Kingsdown, TN15 6JB** (Pages 1 - 24)
(Fawkham and West Kingsdown)

1. Procedure at Sub-Committees of the Licensing Committee (established in accordance with Section 9 of the Licensing Act 2003)

- 1.1 In accordance with Section 9(1) of the Licensing Act 2003, the Licensing Committee has resolved to establish Sub-Committees, each consisting of three members of the Committee.
- 1.2 The Sub-Committees have delegated authority to determine those functions that are reserved for decision by the Sub-Committees in accordance with Appendix B of the Council's Statement of Licensing Policy dated 7 January 2011.
- 1.3 Hearings shall be conducted in accordance with this Procedure Note and The Licensing Act 2003 (Hearings) Regulations 2005 subject to the right of the Sub-Committee to vary that procedure at their absolute discretion if considered in the public interest.
- 1.4 The quorum for a Sub-Committee shall be two members.
- 1.5 At the commencement of each hearing the Sub-Committee shall elect one of its members as Chairman.
- 1.6 The order of business at hearings shall be:
 - (a) Election of Chairman.
 - (b) Declarations of interests.
 - (c) Chairman explains the procedure to be followed at the hearing, including the setting of equal time limits for all parties and the granting of adjournments.
 - (d) Chairman ascertains who is assisting or representing the parties.
 - (e) Applicant (or his/her representative) addresses the Sub-Committee.
 - (f) Applicant questioned by members. At the discretion of the Sub-Committee other parties may be permitted to question the applicant.
 - (g) Persons who have made representations in respect of the application (or their representative) address the Sub-Committee. No issues other than those relevant to their representations may be raised.
 - (h) Members question each party at the conclusion of their address. At the discretion of the Sub-Committee, the applicant may be permitted to question other parties.

- (i) Sub-Committee may offer the parties a short adjournment to discuss in the absence of the Sub-Committee whether a solution acceptable to all the parties can be put to the Sub-Committee.
- (j) Applicant (or his/her representative) makes closing address.
- (k) Sub-Committee may grant a short adjournment. The parties may not speak to members regarding the application during adjournments.
- (l) The Sub-Committee considers the application and motions put to accept or reject the application in the terms requested or to grant the application subject to specified conditions. Reasons are to be given for motions.
- (m) The parties will be informed of the decision at the hearing or thereafter in accordance with Regulation 26 of the 2005 Regulation.

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REPRESENTATION AGAINST SUMMARY REVIEW INTERIM STEPS FOLLOWING AN APPLICATION FOR A SUMMARY REVIEW OF A PREMISES LICENCE FOR THE PORTOBELLO INN LONDON ROAD WEST KINGSDOWN SEVENOAKS KENT. TN15 6JB

Licensing Sub Committee – 4 June 2014

Report of Chief Officer Environmental & Operational Services – Mr Richard Wilson

Status: For Decision

Key Decision: No

Contact Officer(s) Leeann Leeds Ext: 7270

Recommendation to Licensing Sub Committee: Members' instructions are requested

Introduction and Background

- 1 The procedure for Hearings of Sub-Committees of the Licensing Committee is established in accordance with Section 9 of the Licensing Act 2003.
- 2 The purpose of this report is for the Sub-Committee to consider whether it is necessary to impose interim steps on the premises licence pending the determination of a summary review of the premises licence.
- 3 The application is made by Superintendent Keers on behalf of the Chief Officer of Police for the Kent Police area for a summary review of the premises licence for Portobello Inn, London Road, West Kingsdown, Sevenoaks, Kent. TN15 6JB

The Grounds for Review

- 4 On Friday 23 May 2014 there was an incident involving patrons of the premises which resulted in serious crime under Section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder).
- 5 A copy of the certificate and summary review application is attached to this report as Appendices A and B
- 6 A representation made by the Premises licence holder was received on 2nd June 2014 appealing the decision made by the Sub-Committee on 30th May 2014 to suspend the premises licence. A copy of the representation is attached to this report as Appendix E.
- 7 A copy of the decision notice is attached to this report as Appendix F.

Agenda Item 4

Conclusions

Without prejudice, the Officer would like to draw to Members attention issues that they may wish to consider.

The decision is to be made with regard to the Licensing Act 2003, Secretary of State's Amended Guidance issued under Section 182 of the Act and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from the Policy or Guidance the departure must be directed solely at the attainment of the prevention of public nuisance objective and such departure must be supported by clear and cogent reasons.

Mandatory conditions – the following conditions will be added to the premises licence when it is issued.

The supply of alcohol

Where a premises licence authorises the supply of alcohol, the licence must include the following conditions:-

No supply of alcohol may be made under the premises licence -

- (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Mandatory Conditions in force from 06 April 2010

1. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

Irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children -

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -
 - (i) Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) Drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or

discounted fee to the public or to a group defined by a particular characteristic (other than

any promotion or discount available to an individual in respect of alcohol for

consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on -

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

4. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

5. The responsible person shall ensure that -

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

Agenda Item 4

Key Implications

Financial

None directly arising from this report.

Legal Implications and Risk Assessment Statement.

The decision is to be made with regard to the Licensing Act 2003, Secretary of State's Guidance issued under Section 182 of the Act and the Council's Statement of Licensing Policy. Where the decision departs from the Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and such departure must be supported by clear and cogent reasons.

Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	N/A
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	No	
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		N/A

Appendices

Appendix A – Summary Licence Review Application

Appendix B – Certificate under section 53A(1)(b) of The Licensing Act 2003

Appendix C – Current Premises Licence Part A

Appendix D – Location Map

Appendix E – Representation against the interim steps

Appendix F – Decision notice

Background Papers:

<https://www.gov.uk/government/organisations/home-office/series/alcohol-licensing-premises-licence->

application

The Licensing Act 2003

Section 53A Licensing Act 2003 – Summary Review
Guidance

Section 182 of the Licensing Act 2003 guidance

Section 21 of the Violent Crime Reduction Act 2006

Richard Wilson
Chief Officer Environmental & Operational Services

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By virtue of paragraph(s) 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Agenda Item 4

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Kent Police
Maidstone Police Station
Palace Avenue
Maidstone
ME15 6NF

CERTIFICATE UNDER SECTION 53A(1)(b) OF THE LICENSING ACT 2003

I hereby certify that in my opinion the premises described below are associated with serious crime / serious disorder / both serious crime and serious disorder¹.

Premises²:

The Portobello Inn
London Road
West Kingsdown
Sevenoaks
Kent
TN15 6JB

Premises licence number (if known): 11/00696/LAPRE

Name of premises supervisor (if known): Ms Charmain HENDERSON

I am a Superintendent  ³ in the Kent
police force.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because⁴:

Kent Police have considered whether a standard review under Section 51, Licensing Act 2003 is suitable, but have decided that it is not for the following reasons;

- 1) The standard review will take at least 28 days to come to hearing and this can be appealed, further delaying any remedial action
- 2) Powers of closure are not retrospective, and therefore are not applicable

¹ Delete as applicable.

² Include business name and address and any other relevant identifying details.

³ Insert rank of officer giving the certificate, which must be superintendent or above.

⁴ Give a brief description of why other procedures such as a standard review process are thought to be inappropriate, e.g. the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned.

In addition Kent Police believe the following:

- 3) Interim measures applied to a premises licence by a licensing committee will have immediate effect in preventing crime and disorder

[Redacted signature area]

28/5/14

(Signed)

(Date)



PREMISES LICENCE

The Licensing Act 2003
Schedule 12, Part A

Premises Licence Number	11/00696/LAPRE
-------------------------	----------------

Part 1 – Premises Details

Postal address of premises , or if none, ordnance survey map reference or description, including Post Town & Post Code

The Portobello Inn
London Road
West Kingsdown
Sevenoaks
Kent. TN15 6JB

Telephone number 01474 852238

Where the licence is time limited the dates

Not Applicable

Licensable activities authorised by the licence

Live music
Recorded music
Sale or Supply of Alcohol

Times the licence authorises the carrying out of licensable activities

Live music	Friday and Saturday	19:00 - 00:00 Indoors only
	Sunday	19:00 - 22:30 Indoors only
Recorded music	Friday and Saturday	19:00 - 00:00 Indoors only
	Sunday	19:00 - 22:30 Indoors only
Sale or Supply of Alcohol	Friday and Saturday	11:00 - 00:30
	Monday to Thursday	11:00 - 00:00
	Sunday	12:00 - 00:00

Non-standard times for licensable activities

For Live music and recorded music on Christmas Eve, Christmas Day, Boxing Day, New Year's Eve, Spring & August Bank Holidays, Good Friday, Easter Saturday, Sunday & Monday and any other Bank Holidays from 19:00 until 00:00 hours.

For Sale of alcohol on Christmas Eve, Christmas Day, Boxing Day, New Year's Eve, Spring & August Bank Holidays, Good Friday, Easter Saturday, Sunday & Monday and any other Bank Holidays from 19:00 until 00:30 hours.

The opening hours of the premises

Monday to Thursday	11:00 - 00:30
Friday and Saturday	11:00 - 01:00
Sunday	12:00 - 00:30

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The non-standard opening hours of the premises

Christmas Eve, Christmas Day, Boxing Day, New Years Eve, Spring & Aug Bank Holidays, Good Friday, Easter Saturday, Sunday & Monday and any other Bank Holidays 11:00 - 01:00 hours.

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption on and off the premises

Part 2

Name, (registered) address, telephone number and email address (where relevant) of holder of premises licence

Green King Retailing Limited
Abbot House
Bury St Edmunds
Suffolk IP33 1QT

Registered number of holder, for example company number, charity number (where applicable)

5265451

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Ms Charmain Henderson
Portobello Inn
London Road
West Kingsdown
Sevenoaks
Kent. TN15 6JB

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Licence Number: 10/01903/LAPER
Licensing Authority: Sevenoaks District Council



Kristen Paterson
Community and Planning Services Director
Sevenoaks District Council

Licence Number: 11/00696/LAPRE
Issue Date: 04/04/2011

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Licence issued by:
The Licensing Partnership, PO Box 102, Sevenoaks Kent TN13 1GP
Telephone number: 01732 227004

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- (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on -
 - (i) the outcome of a race, competition or other event or process, or
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APPENDIX C

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(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

Annex 2 – Embedded conditions

Not applicable

Annex 3 – Conditions consistent with the Operating Schedule

All external doors and windows must be kept closed, other than for access and egress, in all rooms when events involving amplified music or speech are taking place.

Performers should be supervised to ensure the loading of equipment at the end of any event does not disturb surrounding residents.

Any refuse and empty bottles should not be put out in the refuse areas after 7pm at night.

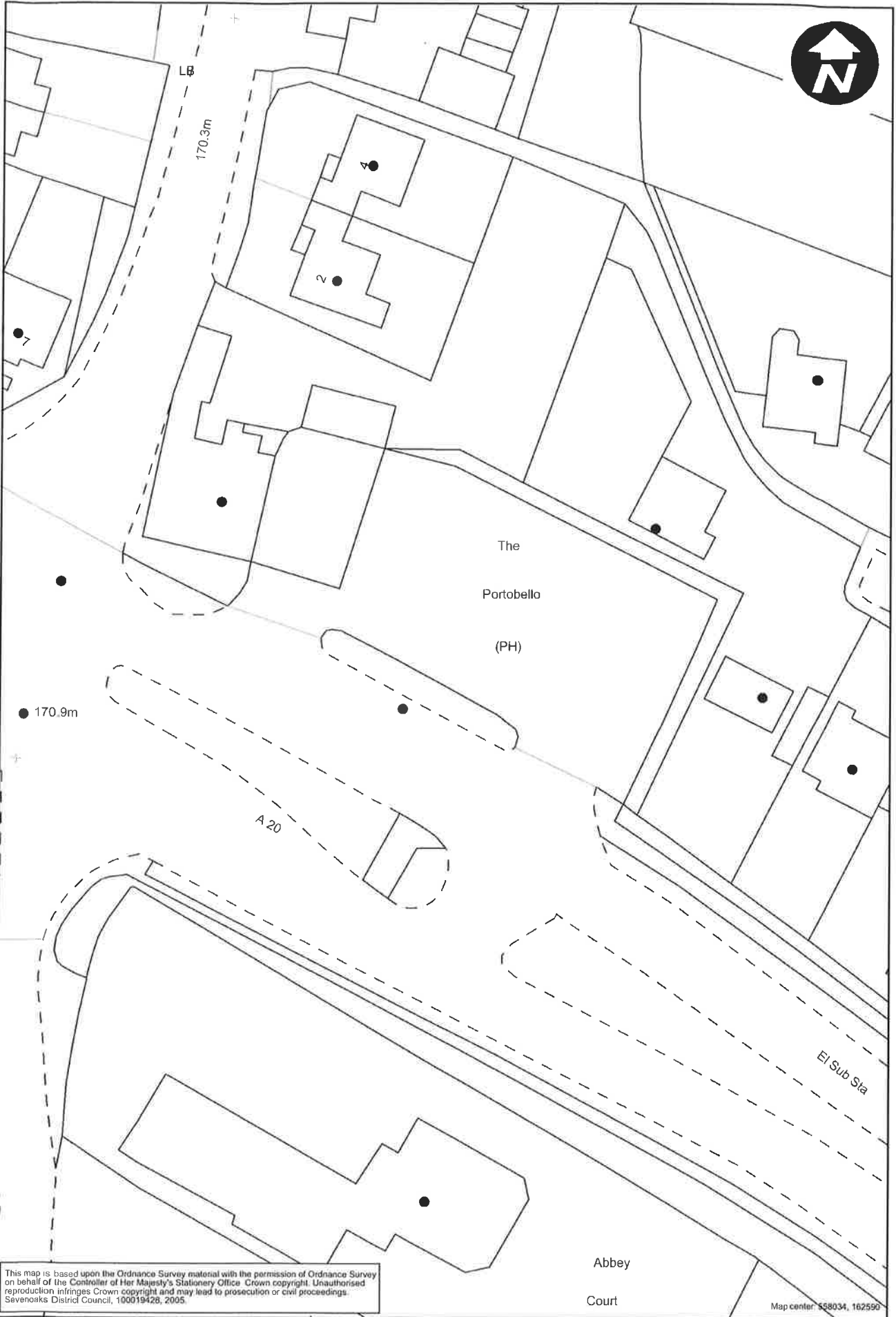
Prominent, clear and legible notices are displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and the area quietly.

Annex 4 – Conditions attached after a hearing by the licensing authority

Not applicable

Annex 5 – Plans

Please see attached



This map is based upon the Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Sevenoaks District Council, 100019426, 2005.

Abbey
Court

Map center 558034, 162590

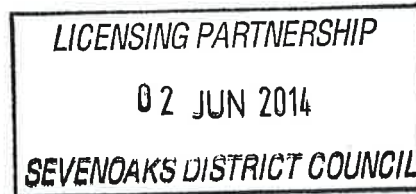
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Our ref 303L/BR01/84742/1515
Your ref



Sevenoaks District Council
PO Box 182
SEVENOAKS
TN13 1GP

For the attention of: Licensing Partnership

Direct tel +44 (0)117 917 7612

Date 2 June 2014

Direct fax +44 (0)117 917 7566

Email barry.richards@TLTsolicitors.com

Please note telephone calls may be recorded for training or regulatory purposes

Dear Sirs

**Licensing Act 2003 – Representation Against Summary Review Interim Steps Decision
Portobello London Road West Kingsdown TN15 6JB**

We act for Greene King Retailing Limited, the premises licence holders of The Portobello, London Road, West Kingsdown, TN15 6JB, licence number 11/00696/LAPRE.

Please accept this letter as a formal representation against the decision by the committee to suspend the premises licence at the interim steps hearing of 30 May 2014 under S53B(6) Licensing Act 2003.

We would be grateful if you could please arrange the hearing for Wednesday 4 June 2014.

We trust this is acceptable but should you have any questions please contact the writer.

Yours sincerely



TLT LLP

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LICENSING ACT 2003 – Section 53A

Notice of determination of interim steps following an application for a summary review of a premises licence

To: Chief Officer of Police for the Kent Police area

Of: Maidstone Police Station, Palace Avenue, Maidstone, Kent ME15 6NF

Ref: 11/00696/LAPRE

Sevenoaks District Council being the licensing authority, on 28 May 2014 received an application for the summary review of a premises licence in respect of premises known as The Portobello Inn, London Road, West Kingsdown TN15 6JB.

On the 30 May 2014, within 48 hours of receipt of the Chief Officer's application, a hearing was held to consider whether it was necessary to take interim steps, and having considered it the Council have determined as follows:

To suspend the premises licence

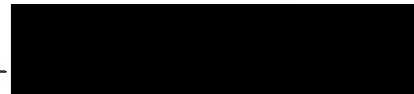
For the following reasons:

The Committee is satisfied on the basis of the information given in the application that on the day of the incident 23 May 2014 the supervision of the premises was not sufficient and that this contributed to the serious incident that occurred. Given the seriousness of the incident, suspending the licence in the interim is proportionate and necessary.

The interim steps are effective from 30 May 2014.

Dated:

Signed



Chairman – Licensing Hearing

Signed



Designation – Licensing Officer

Please address any communications to:

The Licensing Partnership
Council Offices
PO Box 182
Argyle Road
Sevenoaks
Kent TN13 1GP

Note: Representations against the interim steps may be made to the above address and a further hearing held within a further 48 hours pursuant to Section 53B(6).

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