

### **LICENSING COMMITTEE - LICENSING HEARING**

(SUB-GROUP D)

15 June 2015 at 10.30 am

Council Chamber, Argyle Road, Sevenoaks

### **AGENDA**

### Membership:

Cllrs. Abraham, Cooke and Raikes\*

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

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### **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.

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- 1. Appointment of Chairman
- 2. Declarations of interest
- 3. Application for a Premises Licence under the Licensing Act 2003 from Mr Kanesanathan Kandasmany for West Kingsdown Mini-Market, 1 Portobello Parade, Fawkham Road, West Kingsdown, Kent. TN15 6JP (Pages 1 26)

(Fawkham & 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.

- (I) 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.



APPLICATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT 2003 FROM MR KANESANATHAN KANDASMANY FOR WEST KINGSDOWN MINI-MARKET, 1 PORTOBELLO PARADE, FAWKHAM ROAD, WEST KINGSDOWN, KENT. TN15 6JP APPLICATION REFERENCE: 15/01248/LAPRE

### Licensing Sub Committee - 15th June 2015

Report of Chief Officer of Environmental & Operational Services – Mr

Richard Wilson

Status: For Decision

Also considered by: N/A

Key Decision: No

Portfolio Holder Cllr. Mrs. Lowe

**Contact Officer(s)** Jessica Bolton Ext: 7480

### **Recommendation to Licensing Sub Committee:**

Members' instructions are requested

**Reason for recommendation:** N/A

### **Introduction and Background**

- The procedure for Hearings of Sub-Committees of the Licensing Committee established in accordance with Section 9 of the Licensing Act 2003 is attached to the agenda.
- The application is made by Mr Kanesanathan Kandasmany, 143 Springfield Drive, Ilford, Essex, Ilford, IG2 6PG
- 3 Application is to allow the following licensable activities on the premises.

### The application is to:

Section J	To allow the sale of alcohol for consumption off the premises only Every day from 08:00 hours until 23:00 hours.
Section L	Hours premises are open to the public Every day from 08:00 hours until 23:00 hours.

The applicant intends to take the following action in order to promote the four licensing objectives if the proposed application is granted:

### **General**

These premises are a new acquisition and are to be operated as a dedicated Off Licence

### The Prevention of Crime and Disorder

A CCTV system will be installed and maintained at the premises in accordance with the recommendations of the Kent Police in line with Home Office guidelines. Recordings will be kept for a minimum of 28 days and images made available on reasonable request to the Police or other authorised officer. Should the CCTV system fail for any reason Kent Police and the licensing authority are to be notified as soon as possible and the CCTV system will be made operational as soon as practical.

### **Public Safety**

The sale of intoxicating liquor will not be made to persons where there are grounds to believe that the sale will result in crime or disorder. We will endeavour to ensure that the premises are safe both staff and the general public and a fire risk assessment will be undertaken.

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

We contribute to alleviate public nuisance on/and in the vicinity of premises during the times when the premises are open to members of the public. All deliveries and the collection of refuse will take place during day hours.

### The Protection of Children from Harm

All staff will be trained in sale of age restricted products under the guidance issued by trading standards (or under any new guidance that will supersedes it) Training records for all staff will be maintained at the premises for a period of not less than twelve months, these records will be made available for inspection by and authorised officer on request. Refresher training will be given to all staff on a 6 monthly basis, or when there is a change in legislation. Only PASS approved ID will be acceptable plus passport or photo driving licence. A refusal register will be maintained at the premises, records of this will be kept for no less than 12 month and made available for inspection by an authorised officer request. The register will be signed off by the DPS/Duty Manager at least once a week to ensure that all members of staff are using it. the premises will adopt a Challenge 25 Policy, appropriate signage to this effect will be prominently displayed at the premises. No person under age of 18 years will be responsible for the sale of alcohol.

### Representations received from statutory consultees:

Fire Safety	NO OBJECTIONS
Trading Standards	NO COMMENTS RECEIVED
Social Service	NO COMMENTS RECEIVED
Police	NO COMMENTS RECEIVED

Commercial	NO COMMENTS RECEIVED
Environmental Protection	NO OBJECTIONS
Development Control	NO OBJECTIONS

### Representations received from interested parties:

Six received from residents and one from West Kingsdown Parish Council.

### **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 crime and disorder and prevention of public nuisance objectives 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

- 3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

### Agenda Item 3

- (3) 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 either -
  - (a) a holographic mark, or
  - (b) an ultraviolet feature.

### Mandatory conditions in force from 28 May 2014

- 1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 2. For the purposes of the condition set out in paragraph 1-
  - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
  - (b) "permitted price" is the price found by applying the formula—  $P = D + (D \times V)$  where -
    - (i) P is the permitted price,
    - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
    - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
  - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
  - (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
  - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
  - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that

sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

- 4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
  - (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### **Conditions consistent with the Operating Schedule**

A CCTV system will be installed and maintained at the premises in accordance with the recommendations of the Kent Police in line with Home Office guidelines.

Recordings will be kept for a minimum of 28 days and images made available on reasonable request to the Police or other authorised officer.

Should the CCTV system fail for any reason Kent Police and the licensing authority are to be notified as soon as possible and the CCTV system will be made operational as soon as practical.

All staff will be trained in sale of age restricted products under the guidance issued by trading standards (or under any new guidance that will supersedes it) Training records for all staff will be maintained at the premises for a period of not less than twelve months, these records will be made available for inspection by and authorised officer on request. Refresher training will be given to all staff on a 6 monthly basis, or when there is a change in legislation.

Only PASS approved ID will be acceptable plus passport or photo driving licence.

A refusal register will be maintained at the premises, records of this will be kept for no less than 12 months and made available for inspection by an authorised officer on request.

The register will be signed off by the DPS/Duty Manager at least once a week to ensure that all members of staff are using it.

The premises will adopt a Challenge 25 Policy, appropriate signage to this effect will be prominently displayed at the premises. No person under age of 18 years will be responsible for the sale of alcohol.

Any deliveries to and the collections of waste from the premises must not occur between the hours of 22:00 and 08:00.

### **Key Implications**

### Financial

None directly arising from this report.

### Agenda Item 3

### <u>Legal Implications and Risk Assessment Statement.</u>

This Hearing is regulated by The Licensing Act 2003 (Hearings) Regulations 2005

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**

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

**Appendices** Appendix A – Representations

Appendix B - Plan of the Premises

Appendix C – Locality map

**Background Papers:** The Licensing Act 2003

**Richard Wilson** 

**Chief Officer for Environmental & Operational Services** 

### Donna Thorne

publicaccess@sevenoaks.gov.uk From:

13 May 2015 20:56 Sent: ö

Licensing **Subject:** 

Comments for Licensing Application 15/01248/LAPRE

Valid-18

Licensing Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 8:56 PM on 13 May 2015 from Mr Dean gardiner.

**Application Summary** 

1 Portobello Parade Fawkham Road West Kingsdown Kent TN15 6JP

Address:

SEVENDAKS DISTRICT COUNCIL

LICENSING PARTNERSHIP

13 MAY 2015

Premises Licence Case Officer: Jessica Bolton Proposal:

Con further information

**Customer Details** 

Mr Dean gardiner Name:

Address

Email:

Portobello Parade Fawkham Road, West Kingsdown, Kent

TN15 6JP

**Comments Details** 

Neighbour Commenter

Customer objects to the Licensing Application Stance:

- Noise Disturbance - Crime Objections Reasons for comment:

- Opening Hours

### **Donna Thorne**

publicaccess@sevenoaks.gov.uk From:

19 May 2015 23:21

**Subject:** 

Sent:

Comments for Licensing Application 15/01248/LAPRE

Licensing Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 11:20 PM on 19 May 2015 from Mr neil smith.

# **Application Summary**

1 Portobello Parade Fawkham Road West Kingsdown Kent

Address:

TN15 6JP

Premises Licence Proposal:

Case Officer: Jessica Bolton

Cock for further information

**Customer Details** 

Mr neil smith Name:

Email:

Portobello Parade Fawkham Road, West Kingsdown, Kent TN15 6JP Address:

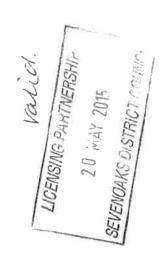
## **Comments Details**

Neighbour Commenter Type:

Customer objects to the Licensing Application Stance:

 Noise Disturbance - Opening Hours Reasons for comment:

Protection of Children from Harm



night mini market /alcohol licence, as I believe it will also These are a few reasons why I strongly object to the late minutes which could cause possible anti social behaviour. minor criminal damage to properties & cars including the safety of families with young children who live along this here is calm packed & quite the entrance & exit must be along a very quite road, with cars constantly parking up nour or two throughout the day until evening so parking closing time, the build up of litter, there could be higher interest in properties by non residents causing major or trying their luck to get served, anti social behaviour til with mr Kandasamys customers popping in for 5 to 20 market/alcohol licence. As a homeowner I believe this 11:20 PM on 19 May 2015 I would like to object to Mr situated here have clients who could stay for up to an very quite low lit parade & road, the retailers already services, which I believe will always be compromised clear at all times for residents, retailers & emergency until 11pm, there will be bored kids hanging around will bring a very high level of late night traffic noise bring the standards down of a charming quite road.

Safety of Premises

Comments:

### Janet Lockie

From:

Andrew

Sent:

21 May 2015 20:47

To:

Licensing

Subject:

1 portablello parade fawkham rd West Kingsdown TN15 6JP

I wish to object to the license application at the above address on the grounds of public nuisance and potential crime.

The application will do nothing to enhance the location and will open up the real potential of significant noise and disruptive behaviour from people visiting the premises late at night.

Whilst alcohol cannot be consumed on the premise, what is there to stop people hanging around outside consuming alcohol? This is surely something that is not appropriate outside a primary school and could well be frightening to the pupils and cause a public nuisance.

There have been a number of brake ins at these shops over the years, the prospect of a shop opening late and selling alcohol has all the ingredients to be targeted by crime.

Whilst I appreciate that the premises are an existing shop, as a local resident (next door) we already suffer significant inconvenience with people parking across our drive and blocking sight lines because of the lack of suitable parking. I am not sure this comes within your remit, but a licence would only make this worse.

We already suffer from a significant amount of rubbish ending up in our drive, including beer glasses and the like, I am fearful this will only get worse.

Yours sincerely

Andrew Burgess Wayside Cottage Fawkham Road TN15 6JP

Sent from my iPad

Valid.

LICENSING PARTNERSHIP

22 MAY 2015 SHL

SEVENOAKS DISTRICT COUNCIL

### **Donna Thorne**

From: Sent: ö

publicaccess@sevenoaks.gov.uk

06 May 2015 07:10

Licensing

**Subject:** 

Comments for Licensing Application 15/01248/LAPRE

Licensing Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 7:10 AM on 06 May 2015 from Mr Ken Wood.

# **Application Summary**

1 Portobello Parade Fawkham Road West Kingsdown Kent

TN15 6JP **Address:** 

Premises Licence **Proposal:** 

Gese Officer: Jessica Bolton

Cock for further information

Customer Details

Mr Ken Wood Name:

Email:

Portobello Parade Fawkham Road, West Kingsdown, Kent

TN15 6JP Address:

## **Comments Details**

Neighbour Commenter

Customer objects to the Licensing Application Stance:

- Noise Disturbance

Crime Objections

Reasons for

comment:

- Opening Hours



- Protection of Children from Harm
  - Safety of Premises

Comments:

demised premise any a deed or thing which shall grow or disturbance or the lessor or the tenant or occupier of any permitted to take place on the demised premise. Like my self I am employed up at 4am to go to work, how are we esidents. with the sale of alcohol this shop will be haven given residents notification of change of business or sale heir face. Come Sevenoaks think of your residents for a express previous written consent of the lessor. Nor shall connection and not to do or permit or suffer to be done cctv fitted vandals will not corporate by displaying their any manufacture distilling blending or brewing of wines Not to do or permit or suffer to be done in or about in 7:10 AM on 06 May 2015 Sevenoaks council have not beers or spirits or the sale or consumption thereof be possibility of mugging or worse. no matter how many supposed to rest and children, babies sleep when the or youths and possibility vandals causing damage to Portobello Parade Lease agreement states Quote: (n) names and addresses on their back or nice profile of of alcohol & late night opening hours 8am to 11pm. adjacent or neighbouring premises not without the residents & shop keepers delivery and parking for n or about or in connection or may be n with the cars and shops, more worrying no street lighting ead to the damage annoyance inconvenience or shop opened until 11am. No parking at the rear

### **Donna Thorne**

publicaccess@sevenoaks.gov.uk From: Sent:

20 May 2015 12:22

Licensing

**Subject:** 

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Comments for Licensing Application 15/01248/LAPRE

Licensing Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 12:22 PM on 20 May 2015 from Mrs Sonia Phillips.

# **Application Summary**

1 Portobello Parade Fawkham Road West Kingsdown Kent

TN15 6JP Address:

Premises Licence Proposal:

Bse Officer: Jessica Bolton

**Ock for further information** 

## **Customer Details**

Mrs Sonia Phillips Name:

**Email**:

West Kingsdown C Of E Primary School Fawkham Road, **Address:** 

West Kingsdown, Kent TN15 6JP

## **Comments Details**

Member of the Public Commenter Type: Customer objects to the Licensing Application Stance:

- Opening Hours Reasons for

- Parking comment:

- Protection of Children from Harm

about the fact that a convenience store is opening in the the shops and this will only increase leading to concerns reasons; There is already an issue with parking outside for safety, particularly during pick up and drop off times when pupils will be dropped off and collected is my final parade of shops adjacent to the school for a number of increase traffic outside the school gates, in an already 12:22 PM on 20 May 2015 I would like to register my busy area. The fact that is alcohol is on sale at times West Kingsdown CE Primary School. I am concerned when the shop will be open. I also have concerns for concern as this could lead to some elements of anticoncern on behalf of the pupils, parents and staff of deliveries to the convenience store as this will also social behaviour. I am also confused as to why the application has been allowed to go ahead when it

Comments:

### Janet Lockie

From:

publicaccess@sevenoaks.gov.uk

Sent:

04 May 2015 12:48

To:

Licensing

Subject:

Comments for Licensing Application 15/01248/LAPRE

Licensing Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 12:47 PM on 04 May 2015 from Mrs Susan Birley.

### Application Summary

Address:

1 Portobello Parade Fawkham Road West Kingsdown Kent

TN15 6JP

Proposal:

Premises Licence

**Case Officer:** Jessica Bolton Click for further information

### **Customer Details**

Name:

Mrs Susan Birley

Email:

Address:

Portobello Parade Fawkham Road, West Kingsdown, Kent

TN15 6JP

### **Comments Details**

Commenter

Type:

Neighbour

Stance:

Customer objects to the Licensing Application

Reasons for comment:

- Crime ObjectionsNoise Disturbance
- Opening Hours
- Parking
- Protection of Children from Harm
- Safety of Premises
- Traffic

### Comments:

12:47 PM on 04 May 2015 Dear Sir, The above applied for an alcohol licence on 27th April 2015. I would like to register my formal objection to this application. Mr Kandasamy may not sell alcohol under the teams of a covenant which applies to all 12 units within the parade, including his. The extracted clause to which I refer is as follows: • (n).....not to do or permit or suffer to be done in or about or in connection and not to do or permit or suffer to be done in or about or in connection with the demised premise any a deed or thing which shall or may be grow or lead to the damage annoyance inconvenience or disturbance of the Lessor or the tenant or occupier of any adjacent or neighbouring premises not without the express previous written consent of the Lessor.....nor shall any manufacture distilling blending or brewing of wines beers or spirits or the sale or consumption thereof

### Agenda Item 3

LICENSING PARTNERSHIP

0 5 MAY 7015

SEVENDAKS DISTRICT COUNCIL

### Janet Lockie

From:

publicaccess@sevenoaks.gov.uk

Sent:

21 May 2015 20:38

To:

Licensing

Subject:

Comments for Licensing Application 15/01248/LAPRE

Licensing Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 8:38 PM on 21 May 2015 from Mrs Susan Birley.

### Application Summary

Address:

1 Portobello Parade Fawkham Road West Kingsdown Kent

TN15 6JP

Proposal:

Premises Licence

Case Officer: Jessica Bolton

Click for further information

### Customer Details

Name:

Mrs Susan Birley

Email:

Address:

Portobello Parade Fawkham Road, West Kingsdown, Kent

TN15 6JP

### **Comments Details**

Commenter

Туре:

Neighbour

Stance:

Customer made comments neither objecting to or

supporting the Licensing Application

Reasons for

- Crime Objections

comment:

- Noise Disturbance

Opening Hours

- Parking

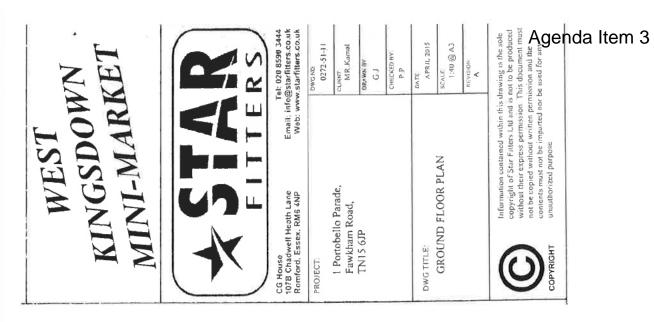
- Protection of Children from Harm

- Traffic

Comments:

8:38 PM on 21 May 2015 As a person who has already made an objection to this application, I understand I am able to elect Cllr Faye Parkin to represent my interests in this licence application. If this is not the correct medium with which to make this request, and to get Cllr Parkin, my district counsellor, to represent me, then please let

me know how I might achieve this.



WEST KINGSDOWN

