



## AGENDA

### LICENSING SUB-COMMITTEE MEETING

Date: Tuesday, 1 August 2017

Time: 2.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT

Membership:

Councillors Tina Booth, Anita Walker and Mike Whiting.

Quorum = 3

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Pages

1. Fire Evacuation Procedure

The Chairman will advise the meeting of the evacuation procedures to follow in the event of an emergency. This is particularly important for visitors and members of the public who will be unfamiliar with the building and procedures.

The Chairman will inform the meeting whether there is a planned evacuation drill due to take place, what the alarm sounds like (i.e. ringing bells), where the closest emergency exit route is, and where the second closest emergency exit route is, in the event that the closest exit or route is blocked.

The Chairman will inform the meeting that:

(a) in the event of the alarm sounding, everybody must leave the building via the nearest safe available exit and gather at the Assembly points at the far side of the Car Park. Nobody must leave the assembly point until everybody can be accounted for and nobody must return to the building until the Chairman has informed them that it is safe to do so; and

(b) the lifts must not be used in the event of an evacuation.

Any officers present at the meeting will aid with the evacuation.

It is important that the Chairman is informed of any person attending who is disabled or unable to use the stairs, so that suitable arrangements may be made in the event of an emergency.

2. Apologies for Absence and Confirmation of Substitutes

3. Notification of Chairman and Outline of Procedure

#### 4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.

The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:

(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.

(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.

(c) Where it is possible that a fair-minded and informed observer, having considered the facts would conclude that there was a real possibility that the Member might be predetermined or biased the Member should declare their predetermination or bias and then leave the room while that item is considered.

**Advice to Members:** If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the Meeting.

#### 5. Review of Premises Licence under the Licensing Act 2003

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To consider a review of the Premises Licence for Merlins, 47 Leysdown Road, Leysdown, Sheerness, Kent ME12 4RB.

**Issued on Monday, 24 July 2017**

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**Chief Executive, Swale Borough Council,  
Swale House, East Street, Sittingbourne, Kent, ME10 3HT**

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**APPLICATION FOR SUMMARY REVIEW FULL HEARING AND REVIEW OF INTERIM STEPS – MERLINS 47 LEYSDOWN ROAD LEYSDOWN SHEERNESS KENT ME12 4RB**

To: Licensing Sub-Committee – Tuesday 1<sup>st</sup> August 2017 at 14:00

By: Mohammad Bauluck, Licensing Officer

Ward: Sheppey East

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**Summary: To consider this application for a summary review applied for by Kent Police and review interim steps taken on Monday 17<sup>th</sup> July 2017.**

**For determination on full review options set out at 3.1 and review interim steps shown at Appendix 6 taken on 17<sup>th</sup> July 2017, options at 3.2, to have effect until the full review determination is in place if interim steps are appropriate for the promotion of the licensing objectives.**

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## **1.0 General Points**

- 1.1 Summary reviews of premises licenses were introduced by the Violent Crime Reduction Act 2006 from the 1<sup>st</sup> October 2007. They provide for a quick process for licence review when the police consider that the premises concerned is associated with serious crime or serious disorder (or both) and the Licensing Authority considering whether interim steps are necessary in respect of a licence pending determination of a full review.
- 1.2 A Superintendent of Police or above must provide a certificate that in their opinion the premises are associated with serious crime or serious disorder or both.
- 1.3 Where such an application for review is made the licensing authority must, within 48 hours of the time of its receipt, consider whether it is necessary to take interim steps pending the determination of the review of the premises licence and within 28 days after the day of its receipt review the licence.
- 1.4 The licensing authority has power to consider whether or not to take interim steps without giving the holder of the premises licence an opportunity to make representations. If the authority decides to take interim steps the decision takes effect immediately or as soon as after that as the authority directs but the authority must give immediate notice of its decision and of the reasons for making it to a) the holder/s of the premises licence and b) the Chief Officer of Police.
- 1.5 The holder of the premises licence may make representations against any interim steps and the authority must within 48 hours of receiving those representations hold a hearing to consider those.
- 1.6 The Policing and Crime Act 2017 sections 138 and 139 made amendments to the process of summary review and since 6, April 2017 any interim steps taken must be reviewed at the full review hearing to determine whether they are appropriate to promote the licensing objectives, considering any relevant representations and determine whether to withdraw or modify those steps. The reviewed steps then

apply until the period for appealing the full review decision has passed, or if it is appealed until that appeal is disposed of or until the end of a period that the authority determine but not longer than the above.

- 1.7 The Licensing Sub-Committee will be aware that it must carry out its functions under the 2003 Licensing Act with a view to promoting the licensing objectives. The Licensing objectives are: - the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm. In carrying out its licensing functions, the Licensing Sub-Committee must also have regard to its statement of licensing policy and the Guidance issued by the Secretary of State.

## 2.0 **Introduction and Background**

- 2.1 A premises licence was issued in November 2005 to Merlins 47 Leysdown road Leysdown Sheerness Kent ME12 4RB. Mrs Leonora Dunne and Mr Eli Thompson have been the Premises Licence holders since the grant of the Premises Licence in November 2005. A copy of the Premises licence showing the licensable activities and hours granted and applicable conditions is shown at **Appendix 1**.
- 2.2 On 22<sup>nd</sup> April 2009 the Police submitted a certificate under Section 53A(1)(b) of the Licensing Act 2003 for an Expedited review on Merlins in Leysdown on the ground of serious crime and disorder. The interim steps were put in place in a hearing held on Friday 24<sup>th</sup> April 2017. A copy of the certificate submitted by Kent Police is at **Appendix 2**
- 2.3 A full hearing of the Licensing Sub-Committee was held on Thursday 14<sup>th</sup> May 2009. Conditions were added to the Premises licence following the full hearing. A copy of the Premises licence with the attached conditions is shown at **Appendix 3**
- 2.4 Another application for an Expedited Review was made, at 16:38 on 13 July 2017 by Superintendent Lukey of Kent Police for a summary review of the premises licence for Merlins. A copy of the application and appropriate certificate is appended as **Appendix 4**.
- 2.5 A location plan of the premises is at **Appendix 5**
- 2.6 The grounds for summary review were that on Saturday, 9, July 2017 at about 01:15 there was a serious incident involving four males exiting Merlins Club and immediately punching another four males to the head causing serious injuries.

### **Injuries**

Injured Person 1 – Male has suffered a fractured jaw in three places. This has required surgery and the insertion of a metal plate.

Injured Person 2 - Male was knocked unconscious at the time of the incident and required hospital treatment. This victim has subsequently suffered a potentially life threatening bleed on the brain.

Injured Person 3: Male has suffered a black eye and bruising to the rib area.

Injured Person 4: Male has suffered injuries to his facial area.

- 2.7 Police requested that Members consider suspension of the premises licence pending the full review hearing. Kent Police consider that this would allow the

premises to reset and the Police to examine operation of the premises more closely. During that time should revocation not be sought the Police and licence holders may be able to agree necessary alterations to the operation including but not limited to: reduction in the operating hours, the requirement for door staff and the potential change of management.

- 2.8 On 17 July 2017 Sub Committee Members considered the options available to them and the interim step of suspension of the Licence requested by Kent Police.
- 2.9 The Sub-Committee decided to suspend the premises licence with immediate effect. This suspension will be in place until such time that the CCTV evidence is provided to Kent Police in an appropriate format. In the event that the CCTV evidence is provided to Kent Police the suspension of the licence will be relaxed to allow pre-existing booked private functions to go ahead, subject to the Licence being modified by the following conditions:
  - (1) That during any private function there will be a minimum of 3 SIA door staff present for the entirety of the event.
  - (2) That the public bar will remain closed and access to the public bar will be shut off. The determination on interim steps is attached as **Appendix 6**
- 3.0 Notice of the review application was advertised as required and there have been no further representation from Responsible Authorities or other persons.
- 3.1 The Licensing Authority must now hold a hearing to determine its decision on full review, considering any relevant representations received and the relevant legislation, guidance and policy. They must take steps, as considered appropriate for the promotion of the licensing objectives from the following options:

#### **Options**

- (1) To consider no steps appropriate.
- (2) The modification of the conditions of the premises licence.
- (3) The exclusion of a licensable activity from the scope of the licence.
- (4) The removal of the designated premises supervisor from the licence.
- (5) The suspension of the licence.
- (6) The revocation of the licence.

Modification of existing condition/s can include alteration, omission or addition of any new conditions.

- 3.2 Following determination of the full review the Sub Committee must review the interim steps taken on 17, July 2017 and consider whether those steps are appropriate for the promotion of the licensing objectives, consider any relevant representations and determine whether to withdraw or modify the interim steps taken. The power to review includes power to take any of the following interim steps;

#### **Options**

- (1) The modification of the conditions of the premises licence
- (2) The exclusion of the sale by retail of alcohol from the scope of the licence
- (3) The removal of the designated premises supervisor from the licence
- (4) The suspension of the licence

Conditions of the licence are modified if any of them is altered; omitted or any new condition is added.

Any interim steps taken at this stage apply until the end of the period given for appealing the full review decision, if there is an appeal until the appeal is disposed of or the end of a period determined by the authority, which may not be longer than the above periods.

- 3.3 The hearing will be conducted following the procedure attached at **Appendix 7** The Licensing Act 2003 ss 53 A-D and Chapter 12 of the S182 Guidance as revised in April 2017 are particularly relevant.
- 3.4 The full review determination can be appealed by all parties, within 21 days of the decision being given, to the local Magistrates' Court. The review of interim steps determination can be appealed by the Police or Licence Holder within the same period to the Magistrates' Court. In respect of the review of interim steps determination the Court must hear the appeal within 28 days beginning with the day when the appeal is lodged. The full review decision does not have effect until the end of the appeal period or until its disposal and there is no time limit on the time for hearing. If there are appeals against both review of interim steps and the full review decision the Court may decide to hear both together.

#### 4 **Corporate Implications**

##### 5.0 **Financial**

None

##### 5.1 **Legal**

As set out in the body of the report, The Licensing Sub-Committee must take account of the provisions of the Human Rights Act 1998; which gives further effect in the United Kingdom to the fundamental rights and freedoms contained in the European Convention on Human Rights. The Licensing Sub-Committee must have proper regard to the rights of the individual when making decisions that affect them. However, it also has to have regard to the safety and protection of the public and therefore to ensure that the right balance is found

##### 5.2 **Corporate**

None

##### 5.3 **Equity and Equalities**

Not relevant



## 6.0 Recommendation

**That the Sub-Committee consider the application of Kent Police and any relevant representations and take such steps as it considers appropriate for the promotion of the licensing objectives.**

**Following the above determination review interim steps taken on 17<sup>th</sup> July 2017 and decide whether to withdraw or modify them, considering whether they are appropriate for the promotion of the licensing objectives and considering relevant representations**

### APPENDICES

**APPENDIX 1 – Part A of Premises Licence of Merlins**

**APPENDIX 2 – Application form and certificate of Summary review sent by Police on 22<sup>nd</sup> April 2009**

**APPENDIX 3 – Copy of Premises licence following the hearing of 14<sup>th</sup> May 2009**

**APPENDIX 4 – Application form and certificate of Summary review sent by Police on 13<sup>th</sup> July 2017**

**APPENDIX 5 – Location map of Premises – Merlins**

**APPENDIX 6 – Record of Decision Interim Steps**

**APPENDIX 7 - Order of Proceedings**

### BACKGROUND PAPERS

**Licensing Act 2003**

**Revised Guidance issued under S182 of the Licensing Act 2003**

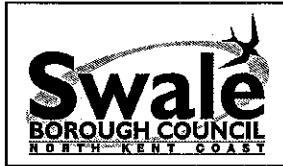
**Licensing Act 2003 (hearings) Regulations 2005 (S.I 2005/44)**

**The Licensing Act 2003 (Premises Licence and Club premises Certificates) Regulations 2005**

**The Licensing Act 2003 – Section 53A (premises associated with serious crime and disorder)**

Officer Contact: Mohammad Bauluck, Licensing Officer

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**Premises Licence number:** SHE/SWALE/189/0224

Part 1 – Premises Details

**Postal address of premises, or if none, ordnance survey map reference:**

**Merlins**  
47 Leysdown Road  
Leysdown

**Post Town:** Sheerness, Kent

**Postcode:** ME12 4RB

**Telephone number:** 01795 510210

**Where the licence is time limited, the dates:**

No limitation.

**Licensable activities authorised by this licence:**

- |  |   |
|--|---|
| <input type="checkbox"/> Sale of Alcohol           | <input type="checkbox"/> Facilities for Dancing |
| <input type="checkbox"/> Performance of Live Music | <input type="checkbox"/> Indoor Sporting Events |
| <input type="checkbox"/> Playing of Recorded Music | <input type="checkbox"/> Late Night Refreshment |

**The times the licence authorises the carrying out of licensable activities:**

**Sale of Alcohol:**

Monday – Saturday: 10:00hrs – 02:00hrs  
Sunday: 12:00hrs – 24:00hrs

**Dancing:**

Monday – Saturday: 10:00hrs – 02:00hrs  
Sunday: 12:00hrs – 24:00hrs

**Live Music:**

Monday – Saturday: 10:00hrs – 02:00hrs  
Sunday: 12:00hrs – 24:00hrs

**Sporting Events:**

Monday – Saturday: 10:00hrs – 02:00hrs  
Sunday: 12:00hrs – 24:00hrs

**Recorded Music:**

Monday – Saturday: 10:00hrs – 02:00hrs  
Sunday: 12:00hrs – 24:00hrs

**Late Night**

**Refreshment:**

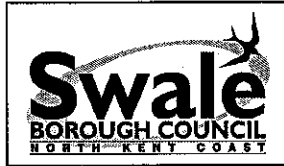
Monday – Sunday: 23:00hrs - Close

**The opening hours of the premises:**

Monday – Saturday: 10:00hrs – 02:00hrs  
Sunday: 12:00hrs – 24:00hrs

**Where the licence authorises supply of alcohol, indicate whether on/off:**

On and Off the premises.



**Premises Licence number: SHE/SWALE/189/0224**

Part 2

**Name (registered) address, telephone number and e-mail of holder of the premises licence:**

**Mrs L Dunne**  
47 Leysdown Road  
Leysdown  
Sheerness  
Kent ME12 4RB  
Tel: 01795 872262

**Mr E Thompson**  
3/5 King Street  
Margate  
Kent  
Tel: 01843 571648

**Registered number of holder, company number or charity number:**

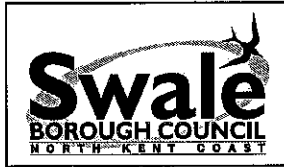
Not Applicable

**Name, address and telephone number of the Designated Premises Supervisor, applicable in premises where the sale of alcohol will take place:**

**Mrs L Dunne**  
47 Leysdown Road  
Leysdown  
Sheerness  
Kent ME12 4RB  
Tel: 01795 872262

**Personal licence number and issuing authority of the personal licence, held by the named designated premises supervisor:**

Licence No: SWALE-PL-367  
Issued by: Swale Borough Council  
East Street  
Sittingbourne  
Kent ME10 3HT



**Premises Licence number:** SHE/SWALE/189/0224

Part 3

**Mandatory Conditions:**

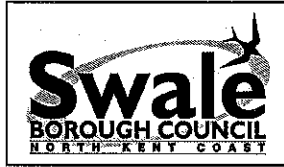
- No sale of alcohol can take place where the designated premises supervisor is not a personal licence holder.
- Any door supervisors must be trained and SIA registered.
- (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
(2) In this paragraph, an 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.

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

*Note for Entertainment Venues:*

- *The licensee's attention is drawn to the fact that due regard must be paid to the statutory nuisance provisions within the Environmental Protection Act 1990. Compliance with these criteria, the applied licence conditions and the agreed operating schedule does not preclude legal action being taken under the above legislation by either Swale Borough Council or an aggrieved individual.*



**Premises Licence number: SHE/SWALE/189/0224**

Part 4

**Conditions consistent with the operating schedule:**

- Only children accompanied by an adult to be allowed on the premises.
- Annual maintenance checks on electrics, emergency lighting, fire fighting equipment and gas to be carried out.
- Occupancy to not exceed 420.
- Licensed areas are the Family Bar & Restaurant, Beer Garden and the Main Hall.



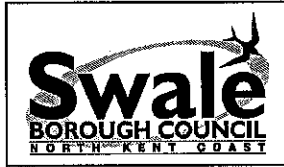
**Premises Licence number:** SHE/SWALE/189/0224

Part 5

**Conditions applied after a committee hearing:**

None





**Premises Licence number: SHE/SWALE/189/0224**

Part 6

**Authorisation.**

This licence is granted this day *Thursday 15<sup>th</sup> September 2005*

On behalf of the Borough Solicitor

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## ANNEX B

Kent Police  
 Police Station  
 Central Ave  
 Sittingbourne  
 Kent ME

**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 disorder<sup>1</sup>.

*Premises*<sup>2</sup>:

Merlins  
 47 Leysdown Road  
 Leysdown  
 Sheerness  
 Kent ME12 4RB

Premises licence number (if known): SHE/SWALE/189/0224

Name of premises supervisor (if known): Leonora Dunne

I am a Superintendent  <sup>3</sup> 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, because<sup>4</sup>:

Grounds

1. On 17<sup>th</sup> April 2009 there was a serious incident involving up to 15 persons in a fight which happened in the licensed premises and then continued outside.

2. One person sustained serious injury having been stabbed with a pool cue in the neck. Following this further serious injury was caused to a second person

<sup>1</sup> Delete as applicable.

<sup>2</sup> Include business name and address and any other relevant identifying details.

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

<sup>4</sup> 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.

when they were run over by a vehicle out side the premises which was a continuation of the same incident.

3. The CCTV system in the premises did not cover the area where the incident occurred and recordings were not able to be taken off the system as no one knew how to down load images.

4. All persons involved in the incident were heavily intoxicated.

5. An incident had been reported to police by the DPS on the 10<sup>th</sup> April 2009 reporting an incident of criminal damage to windows following the ejection of a drunk person.

A standard review is not appropriate because: -

1. The standard review route will take at least 28 days to come to hearing and can be appealed

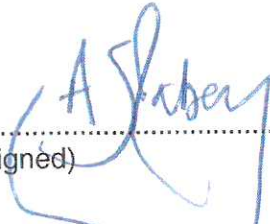
2. This is the start to the holiday season and the consumption of alcohol at premises will be increasing during the coming months.

3. There are two bank holidays in May and a school holiday when it is expected there will be an increase in holiday makers using the premises.

4. Other powers of closure are not applicable retrospectively.

5. Although the police were called by staff it is believe that mandatory conditions will prevent crime and disorder as just one more incident of this nature is one too many when it is eminently preventable.

6. Interim measures applied by a licensing panel has the ability to prevent crime and disorder with immediate effect

 A. J. Sabery Supt.  
.....  
(Signed) (Date) 21/4/09

## FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

Swale Borough Council  
 East Street  
 Sittingbourne  
 Kent

**Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. **Use additional sheets if necessary.**

I PC Barbara Murray [on behalf of] the chief officer of police for the Mid Kent police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

**1. Premises details:**

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**Merlins  
 47 Leysdown Road  
 Leysdown**

Post town: Sheerness

Post code (if known): **ME12 4RB**

**2. Premises licence details:**

Name of premises licence holder (if known):

Mrs L Dunne  
 47 Leysdown Road  
 SheernessKent

Mr E Thompson  
3/5 King Street  
Margate  
Kent

Number of premises licence holder (if known): SHE/SWALE/189/0224

**3. Certificate under section 53A(1)(b) of the Licensing Act 2003** [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

**4. Details of association of the above premises with serious crime, serious disorder or both:**

[Please read guidance note 2]

At 22:58 hours on Friday 17th April 2009 police received a call from Mrs Lee Dunne, the Designated Premises Supervisor, concerning a fight that was happening at the licensed premises. The circumstances are as follows: -The DPS and her husband, who is the owner of the premises, began work at 2030 hours on Friday 17th April 2009. There were a group of approximately 15 persons, both male and female, in the bar. Mr Dunne described them in interview as being 'coked up' but none of the group was asked to leave and they were served alcohol and allowed to stay in the premises through out the evening. As the evening progressed they became increasingly loud and annoying. Mr Dunne described them as banging pool balls down onto the table and becoming loud. Mrs Dunne, the DPS, stated that she did not consider that any of them were drunk and continued to sell them alcohol. Some time just before 2300 hours Mr Dunne, who was near the bar, heard the sound of a glass being broken and saw that someone had smashed a glass against the pool table. He then saw one of the group hit another with a pool cue, which broke, and the person who was hit sustained a stab wound to his neck. At this point Mr Dunne and his door supervisor ejected the whole group and locked the door to the club to stop them re entering. Mr Dunne stood outside and saw that the fight continued, with some of the group kicking another one to the ground and another hammering on the window of a car apparently in an attempt to get at the driver. The car was then driven off and some of the group were seen to be standing in the middle of the road outside of the club shouting and gesturing at the driver in an attempt to goad him. The car was then driven at speed at those in the road and three of the group were hit, two males and a female. It is believed that all of them sustained injuries, although the female left the scene and was not traced. It was at this point that Mrs Dunne called the police and officers attended the scene along with other members of the emergency services. The road was closed and treated as a crime scene and persons were arrested for the offence of Grievous Bodily Harm. Two persons were admitted to hospital. The man with the stab wound to the neck was discharged. One of the men who had been hit by the car was admitted and found to have a fractured skull and had bleeding on the brain and was detained. The second man who was hit by the car sustained cuts and bruising all over his body but he was not taken to hospital. Enquiries at the club to seize the CCTV found that while there was a digital system fitted at the premises, the

cameras did not cover the area where the pool table was situated and in any case no one knew how to download images, and so the system was of no immediate use. Officers who attended the scene and dealt with the offenders described them as being heavily intoxicated either through drink or drugs or both. When Mr and Mrs Dunne were interviewed at Sittingbourne Police Station following the incident they both denied that any of the group had been drunk or had been drinking excessively. They also said that police would not have been called if the incident had ended with the ejection of the group following the fight with the pool cue. The police were only called because the car had been used to continue the altercation and had caused serious injury. There has been one previous call to these premises this year, which was on the 10th April 2009. This again was from Mrs Dunne, who reported that a person who had been ejected from the club for being drunk had broken a window. The police accept that apparently this premises has had little trouble in the past, however the admission by the DPS and her husband shows that we are not informed of even serious assaults. This incident was extremely serious, and in the opinion of the police that it happened as a direct result of the alcohol consumed by the offenders, along with any other possible substances that they may have consumed. The premises has subsequently been swabbed, on Tuesday 21st April 2009, and tested using the Ion Track Drug Trace machine and a reading of 3.65 for cocaine from a swab taken from the cubicle in the gentleman's toilets was recorded. This indicates that there has been drug use within this area. While the initial incident within the premises with the pool cue was serious in itself, the incident outside with the car was worse and resulted in far worse injuries to three other people. The incidents outside the licensed premises were a continuation of the fight inside and are directly attributable to the club. It is necessary to apply for a review of this premises licence in order to ensure that the prevention of crime and disorder objective is addressed. The police ask that the Licensing Committee consider the below listed conditions which it is felt are necessary to ensure that incidents of this kind do not happen in the future. As interim conditions prior to a full review hearing, as a minimum the police ask the committee to consider the removal of the pool table and cues until the CCTV is fitted in accordance with the below conditions and that consideration is given to restricting the sale of alcohol to 1800 hours to 2300 hours Monday to Sunday, again until CCTV is fitted in accordance with the suggested conditions. Therefore the conditions are as follows: -

1. The sale of alcohol will be restricted to 1800 hours to 2300 hours Monday to Sunday until CCTV is fitted to the satisfaction of the police.
2. The premises will close at 2330 hours
3. A minimum of 2 SIA registered door staff will be employed on Friday and Saturday during the trading period and for any Bank Holiday Sunday and Monday.
4. The pool table in the main bar area will be removed until CCTV is fitted to the satisfaction of the police. The pool table in the children's area will remain but will be exclusively for the use of persons under the age of 16 years.

The further conditions I would ask the committee to consider, either at this interim step stage or at the full review stage, are as follows: -

1. CCTV to be fitted to a standard agreed to by the police that complies with The CCTV Code of Practice (2008 edition) produced by the Information

**Commissioners Office, with the entire public area of the premises to be monitored by CCTV.**

- 2. The CCTV system will be maintained and serviced on a regular basis and records kept to that effect.**
- 3. CCTV shall be operational at all time that members of the public and/or staff are on the premises.**
- 4. Images will be retained for a period of at least one calendar month by whatever means the licence holder deems appropriate.**
- 5. The Police or Local Authority will have access to these images at any reasonable time.**
- 6. The Police or Local Authority will be allowed to take a recording by way of tape, CD Rom or any other means of the image immediately on request.**
- 7. Staff will be fully trained in the CCTV system and there will be at least one member of staff on duty during trading hours who is able to provide a recording of any incident at the request of police or local authority.**
- 8. A minimum of 2 door supervisor will be employed at the premises from 2000 hours, on every Friday and Saturday until close of trading, and on every day of any Bank Holiday period again starting at 2000 hours until close of trading.**
- 9. An additional a minimum of 2 SIA registered door supervisors will be employed whenever the function room is in use from the time the event starts to the close of trading.**
- 10. All security staff will wear a reflective jacket, tabard or armband.**
- 11. All security staff will display their name badges by way of a reflective armband.**
- 12. It is the responsibility of the Designated Premises Supervisor to ensure that all incidents are reported to the police.**
- 13. A logbook will be kept detailing all incidents that occur at the premises. This will be a bound book which will detail the following: -**
  - The day, date and time of the incident.**
  - The member of staff making the entry.**
  - All members of staff involved in the incident.**
  - An account of the incident.**
  - Details of any persons injured and the injuries sustained.**
  - Any other details thought relevant.**
  - Each day has to be signed and dated.**
- 14. A register will be kept of all security staff working at the premises for every time that the premises are open for trading. This register will be a bound book and it will contain the following information: -**

**Day and date of entry.**



**Time that member of security staff starts and finishes work.**

**Full name.**

**SIA registration number.**

**Signature of the member of security staff.**

15. Regular checks will be made in the toilets in order to discourage drug use within them. These checks will be a minimum of every 20 minutes during trading hours and will be logged.
16. Access will be given at all reasonable times to the police in order for swabs to be taken for the Ion Track Drug Testing machine.
17. Police will be permitted to use the Ion Track Drug Testing machine as a condition of entry at all reasonable times during trading hours.
18. All glassware to be removed and replaced by toughened or Polycarbonate glass and any bottled drinks to be decanted.
19. The premises will become a member of the Swale Safe radio network (subject to the agreement of the Board of Directors) whenever the network is able to operate in the Leysdown area.
20. All staff will be fully trained in their responsibilities under the Licensing Act and the training will be fully auditable and available to any responsible authority on request.

Signature of applicant:   
Date: 22th April 2009  
Capacity: Mid Kent Licensing Officer

**Contact details for matters concerning this application:**

Address:

**Sittingbourne Police Station  
Central Avenue  
Sittingbourne  
ME10 4NR**

Telephone number(s): 07980 770428

Email: barbara.murray@kent.pnn.police.uk

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.



Licensing Act 2003

## PUBLIC NOTICE

**Application for a review of the Premises Licence**

**Name of Applicant:** PC Barbara Murray (Kent Police)

**Premises:** Merlins, 47 Leysdown Road, Leysdown,  
Sheerness, Kent, ME12 4RB

**Grounds for licence review:** \_\_\_\_\_  
Issues under Crime and Disorder

**Date of Notice:** 22<sup>nd</sup> April 2009

This application can be viewed at Swale Borough Council, Swale House, East Street, Sittingbourne Kent ME10 3HT during office hours.

Objections or further representations must be received within 10 days of the date of this notice. Review application forms are available from the Licensing Department at Swale Borough Council.

It is an offence knowingly or recklessly to make a false statement in connection with an application. Any person who makes a false statement is liable, on summary conviction, to a maximum fine of £5,000.

Kent Police  
Police Station  
Central Ave  
Sittingbourne  
Kent ME

**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 disorder<sup>1</sup>.

*Premises<sup>2</sup>:*

Merlins  
47 Leysdown Road  
Leysdown  
Sheerness  
Kent ME12 4RB

Premises licence number (if known): SHE/SWALE/189/0224

Name of premises supervisor (if known): Leonora Dunne

I am a Superintendent  <sup>3</sup> 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, because<sup>4</sup>:

Grounds

1. On 17<sup>th</sup> April 2009 there was a serious incident involving up to 15 persons in a fight which happened in the licensed premises and then continued outside.

2. One person sustained serious injury having been stabbed with a pool cue in the neck. Following this further serious injury was caused to a second person

<sup>1</sup> Delete as applicable.

<sup>2</sup> Include business name and address and any other relevant identifying details.

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

<sup>4</sup> 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.

when they were run over by a vehicle outside the premises which was a continuation of the same incident.

3. The CCTV system in the premises did not cover the area where the incident occurred and recordings were not able to be taken off the system as no one knew how to download images.

4. All persons involved in the incident were heavily intoxicated.

5. An incident had been reported to police by the DPS on the 10<sup>th</sup> April 2009 reporting an incident of criminal damage to windows following the ejection of a drunk person.

A standard review is not appropriate because: -

1. The standard review route will take at least 28 days to come to hearing and can be appealed

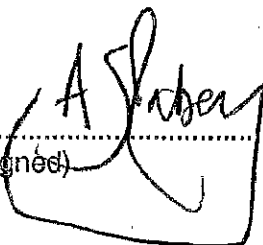
2. This is the start to the holiday season and the consumption of alcohol at premises will be increasing during the coming months.

3. There are two bank holidays in May and a school holiday when it is expected there will be an increase in holiday makers using the premises.

4. Other powers of closure are not applicable retrospectively.

5. Although the police were called by staff it is believed that mandatory conditions will prevent crime and disorder as just one more incident of this nature is one too many when it is eminently preventable.

6. Interim measures applied by a licensing panel has the ability to prevent crime and disorder with immediate effect

 A. S. Sult  
-----  
(Signed) (Date) 21/4/09

# Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

## PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I, Superintendent Andrew Rabey on behalf of the Chief Officer of Police

apply for the review of a premises licence under Section 51 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

### Part 1 – Premises or club premises details

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Merlins 47 Leysdown Road Leysdown	
<b>Post town</b> Sheerness, Kent	<b>Postcode (if known)</b> ME12 4RB

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Mrs L Dunne 47 Leysdown Road Sheerness Kent  Mr E Thompson 3/5 King Street Margate Kent
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<b>Number of premises licence or club premises certificate (if known)</b> SHE/SWALE/189/0224
---

### Part 2 – Applicant Details

I am,

- 1 An interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
  - b) a body representing persons living in the vicinity of the premises
  - c) a person involved in business in the vicinity of the premises
  - d) a body representing persons involved in business in the vicinity of the premises

Please tick yes

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

- 2 A responsible authority (please complete (C) below)
- 3 A member of the club to which this application relates (please complete (A) below)

**(A) Details of Individual Applicant (fill in as applicable)**

**Please tick**

Mr  Mrs  Miss  Ms  Other title (eg, Rev)

**Surname**

**First names**

**I am 18 years old or over**

**Please tick yes**

**Current postal address if different from premises address**

**Post town**

**Post code**

**Daytime contact telephone number**

**Email address (optional)**

**(A) Details of Other Applicant**

<b>Name and address</b>
<b>Telephone number (if any)</b>
<b>Email address (optional)</b>

**(B) Details of Responsible Authority Applicant**

Kent Police Police Station Central Avenue Sittingbourne Kent ME10 4NR
<b>Telephone number (if any)</b> 07890 770428 (PC Barbara Murray)
<b>Email address (optional)</b> licensing.midkent@kent.pnn.police.uk

**This application to review relates to the following licensing objective(s)**

- |  | <b>Please tick one or more boxes</b> |
|--|--------------------------------------|
| 1 The prevention of crime and disorder | X                                    |
| 2 Public safety                        | X                                    |
| 3 The prevention of public nuisance    |                                      |
| 4 The protection of children from harm |                                      |

<p><b>Please state the ground(s) for review (please read guidance note 1)</b></p> <p>The review is being requested following a serious incident of crime and disorder both at the premises and immediately outside of the club, which was a continuation of the original incident.</p>
--



**Please provide as much information as possible to support the application (please read guidance note 2)**

At 22:58 hours on Friday 17<sup>th</sup> April 2009 police received a call from Mrs Lee Dunne, the Designated Premises Supervisor, concerning a fight that was happening at the licensed premises. The circumstances are as follows: -

The DPS and her husband, who is the owner of the premises, began work at 2030 hours on Friday 17<sup>th</sup> April 2009. There were a group of approximately 15 persons, both male and female, in the bar. Mr Dunne described them in interview as being 'coked up' but none of the group was asked to leave and they were served alcohol and allowed to stay in the premises through out the evening. As the evening progressed they became increasingly loud and annoying. Mr Dunne described them as banging pool balls down onto the table and becoming loud. Mrs Dunne, the DPS, stated that she did not consider that any of them were drunk and continued to sell them alcohol. Some time just before 2300 hours Mr Dunne, who was near the bar, heard the sound of a glass being broken and saw that someone had smashed a glass against the pool table. He then saw one of the group hit another with a pool cue, which broke, and the person who was hit sustained a stab wound to his neck. At this point Mr Dunne and his door supervisor ejected the whole group and locked the door to the club to stop them re entering. Mr Dunne stood outside and saw that the fight continued, with some of the group kicking another one to the ground and another hammering on the window of a car apparently in an attempt to get at the driver. The car was then driven off and some of the group were seen to be standing in the middle of the road outside of the club shouting and gesturing at the driver in an attempt to goad him. The car was then driven at speed at those in the road and three of the group were hit, two males and a female. It is believed that all of them sustained injuries, although the female left the scene and was not traced.

It was at this point that Mrs Dunne called the police and officers attended the scene along with other members of the emergency services. The road was closed and treated as a crime scene and persons were arrested for the offence of Grievous Bodily Harm.

Two persons were admitted to hospital. The man with the stab wound to the neck was discharged. One of the men who had been hit by the car was admitted and found to have a fractured skull and had bleeding on the brain and was detained. The second man who was hit by the car sustained cuts and bruising all over his body but he was not taken to hospital.

Enquiries at the club to seize the CCTV found that while there was a digital system fitted at the premises, the cameras did not cover the area where the pool table was situated and in any case no one knew how to download images, and so the system was of no immediate use.

Officers who attended the scene and dealt with the offenders described them as being heavily intoxicated either through drink or drugs or both. When Mr and Mrs Dunne were interviewed at Sittingbourne Police Station following the incident they both denied that any of the group had been drunk or had been drinking excessively. They also said that police would not have been called if the incident had ended with the ejection of the group following the fight with the pool cue. The police were only called because the car had been used to continue the altercation and had caused serious injury.

There has been one previous call to these premises this year, which was on the 10<sup>th</sup> April 2009. This again was from Mrs Dunne, who reported that a person who had been ejected from the club for being drunk had broken a window.

The police accept that apparently this premises has had little trouble in the past, however the admission by the DPS and her husband shows that we are not informed of even serious assaults. This incident was extremely serious, and it the opinion of the police that it happened

as a direct result of the alcohol consumed by the offenders, along with any other possible substances that they may have consumed.

The premises has subsequently been swabbed, on Tuesday 21<sup>st</sup> April 2009, and tested using the Ion Track Drug Trace machine and a reading of 3.65 for cocaine from a swab taken from the cubicle in the gentleman's toilets was recorded. This indicates that there has been drug use within this area.

While the initial incident within the premises with the pool cue was serious in itself, the incident out side with the car was worse and resulted in far worse injuries to three other people. The incidents outside the licensed premises were a continuation of the fight inside and are directly attributable to the club.

It is necessary to apply for a review of this premises licence in order to ensure that the prevention of crime and disorder objective is addressed. The police ask that the Licensing Committee consider the below listed conditions which it is felt are necessary to ensure that incidents of this kind do not happen in the future.

As interim conditions prior to a full review hearing, as a minimum the police ask the committee to consider the removal of the pool table and cues until the CCTV is fitted in accordance with the below conditions and that consideration is given to restricting the sale of alcohol to 1800 hours to 2300 hours Monday to Sunday, again until CCTV is fitted in accordance with the suggested conditions. Therefore the conditions are as follows: -

1. The sale of alcohol will be restricted to 1800 hours to 2300 hours Monday to Sunday until CCTV is fitted to the satisfaction of the police.
2. The premises will close at 2330 hours
3. A minimum of 2 SIA registered door staff will be employed on Friday and Saturday during the trading period and for any Bank Holiday Sunday and Monday.
2. The pool table in the main bar area will be removed until CCTV is fitted to the satisfaction of the police. The pool table in the children's area will remain but will be exclusively for the use of persons under the age of 16 years.

The further conditions I would ask the committee to consider, either at this interim step stage or at the full review stage, are as follows: -

1. CCTV to be fitted to a standard agreed to by the police that complies with The CCTV Code of Practice (2008 edition) produced by the Information Commissioners Office, with the entire public area of the premises to be monitored by CCTV.
2. The CCTV system will be maintained and serviced on a regular basis and records kept to that effect.
3. CCTV shall be operational at all time that members of the public and/or staff are on the premises.
4. Images will be retained for a period of at least one calendar month by whatever means the licence holder deems appropriate.
5. The Police or Local Authority will have access to these images at any reasonable time.

6. The Police or Local Authority will be allowed to take a recording by way of tape, CD Rom or any other means of the image immediately on request.
7. Staff will be fully trained in the CCTV system and there will be at least one member of staff on duty during trading hours who is able to provide a recording of any incident at the request of police or local authority.
8. A minimum of 2 door supervisor will be employed at the premises from 2000 hours, on every Friday and Saturday until close of trading, and on every day of any Bank Holiday period again starting at 2000 hours until close of trading.
9. An additional a minimum of 2 SIA registered door supervisors will be employed whenever the function room is in use from the time the event starts to the close of trading.
10. All security staff will wear a reflective jacket, tabard or armband.
11. All security staff will display their name badges by way of a reflective armband.
12. It is the responsibility of the Designated Premises Supervisor to ensure that all incidents are reported to the police.
13. A logbook will be kept detailing all incidents that occur at the premises. This will be a bound book which will detail the following: -
  - The day, date and time of the incident.
  - The member of staff making the entry.
  - All members of staff involved in the incident.
  - An account of the incident.
  - Details of any persons injured and the injuries sustained.
  - Any other details thought relevant.
  - Each day has to be signed and dated.
14. A register will be kept of all security staff working at the premises for every time that the premises are open for trading. This register will be a bound book and it will contain the following information: -
  - Day and date of entry.
  - Time that member of security staff starts and finishes work.
  - Full name.
  - SIA registration number.
  - Signature of the member of security staff.
15. Regular checks will be made in the toilets in order to discourage drug use within them. These checks will be a minimum of every 20 minutes during trading hours and will be logged.
16. Access will be given at all reasonable times to the police in order for swabs to be taken for the Ion Track Drug Testing machine.
17. Police will be permitted to use the Ion Track Drug Testing machine as a condition of entry at all reasonable times during trading hours.

18. All glassware to be removed and replaced by toughened or Polycarbonate glass and any bottled drinks to be decanted.
19. The premises will become a member of the Swale Safe radio network (subject to the agreement of the Board of Directors) whenever the network is able to operate in the Leysdown area.
20. All staff will be fully trained in their responsibilities under the Licensing Act and the training will be fully auditable and available to any responsible authority on request.

Have you made an application for review relating to this premises before  
If yes, please state the date of that application

Please tick yes

Day Month Year

--	--	--	--	--	--	--	--	--	--

**If you have made representations before relating to this premises please state what they were and when you made them**

**Please tick yes**

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures** (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (see guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature



Date 22<sup>nd</sup> April 2009

Capacity Mid Kent Police Licensing Officer

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 5) PC Barbara Murray Sittingbourne Police Station Central Avenue	
<b>Post town</b> Sittingbourne	<b>Postcode</b> ME10 4NR
<b>Telephone number (if any)</b> 07980 770428	
<b>If you would prefer us to correspond with you using an email address, please provide your email address (optional)</b>  Barbara.murray@kent.pnn.police.uk	

**Notes for Guidance**

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details, for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example, solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

Kent Police  
Police Station  
Central Ave  
Sittingbourne  
Kent ME

**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 disorder<sup>1</sup>.

*Premises<sup>2</sup>:*

Merlins  
47 Leysdown Road  
Leysdown  
Sheerness  
Kent ME12 4RB

Premises licence number (if known): SHE/SWALE/189/0224

Name of premises supervisor (if known): Leonora Dunne

I am a Superintendent  <sup>3</sup> 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, because<sup>4</sup>:

Grounds

1. On 17<sup>th</sup> April 2009 there was a serious incident involving up to 15 persons in a fight which happened in the licensed premises and then continued outside.

2. One person sustained serious injury having been stabbed with a pool cue in the neck. Following this further serious injury was caused to a second person

<sup>1</sup> Delete as applicable.

<sup>2</sup> Include business name and address and any other relevant identifying details.

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

<sup>4</sup> 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.

when they were run over by a vehicle out side the premises which was a continuation of the same incident.

3. The CCTV system in the premises did not cover the area where the incident occurred and recordings were not able to be taken off the system as no one knew how to down load images.

4. All persons involved in the incident were heavily intoxicated.

5. An incident had been reported to police by the DPS on the 10<sup>th</sup> April 2009 reporting an incident of criminal damage to windows following the ejection of a drunk person.

A standard review is not appropriate because: -

1. The standard review route will take at least 28 days to come to hearing and can be appealed

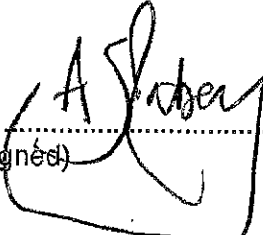
2. This is the start to the holiday season and the consumption of alcohol at premises will be increasing during the coming months.

3. There are two bank holidays in May and a school holiday when it is expected there will be an increase in holiday makers using the premises.

4. Other powers of closure are not applicable retrospectively.

5. Although the police were called by staff it is believe that mandatory conditions will prevent crime and disorder as just one more incident of this nature is one too many when it is eminently preventable.

6. Interim measures applied by a licensing panel has the ability to prevent crime and disorder with immediate effect

 Suber  
(Signed) \_\_\_\_\_ (Date) 21/4/09



## FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

Swale Borough Council

East Street

Sittingbourne

Kent

**Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)**

---

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. **Use additional sheets if necessary.**

I PC Barbara Murray [on behalf of] the chief officer of police for the Mid Kent police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

**1. Premises details:**

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**Merlins  
47 Leysdown Road  
Leysdown**

Post town: Sheerness

Post code (if known): **ME12 4RB**

**2. Premises licence details:**

Name of premises licence holder (if known):

Mrs L Dunne  
47 Leysdown Road  
SheernessKent

Mr E Thompson  
3/5 King Street  
Margate  
Kent

Number of premises licence holder (if known): SHE/SWALE/189/0224

**3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:**

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

**4. Details of association of the above premises with serious crime, serious disorder or both:**

[Please read guidance note 2]

At 22:58 hours on Friday 17th April 2009 police received a call from Mrs Lee Dunne, the Designated Premises Supervisor, concerning a fight that was happening at the licensed premises. The circumstances are as follows: -The DPS and her husband, who is the owner of the premises, began work at 2030 hours on Friday 17th April 2009. There were a group of approximately 15 persons, both male and female, in the bar. Mr Dunne described them in interview as being 'coked up' but none of the group was asked to leave and they were served alcohol and allowed to stay in the premises through out the evening. As the evening progressed they became increasingly loud and annoying. Mr Dunne described them as banging pool balls down onto the table and becoming loud. Mrs Dunne, the DPS, stated that she did not consider that any of them were drunk and continued to sell them alcohol. Some time just before 2300 hours Mr Dunne, who was near the bar, heard the sound of a glass being broken and saw that someone had smashed a glass against the pool table. He then saw one of the group hit another with a pool cue, which broke, and the person who was hit sustained a stab wound to his neck. At this point Mr Dunne and his door supervisor ejected the whole group and locked the door to the club to stop them re entering. Mr Dunne stood outside and saw that the fight continued, with some of the group kicking another one to the ground and another hammering on the window of a car apparently in an attempt to get at the driver. The car was then driven off and some of the group were seen to be standing in the middle of the road outside of the club shouting and gesturing at the driver in an attempt to goad him. The car was then driven at speed at those in the road and three of the group were hit, two males and a female. It is believed that all of them sustained injuries, although the female left the scene and was not traced. It was at this point that Mrs Dunne called the police and officers attended the scene along with other members of the emergency services. The road was closed and treated as a crime scene and persons were arrested for the offence of Grievous Bodily Harm. Two persons were admitted to hospital. The man with the stab wound to the neck was discharged. One of the men who had been hit by the car was admitted and found to have a fractured skull and had bleeding on the brain and was detained. The second man who was hit by the car sustained cuts and bruising all over his body but he was not taken to hospital. Enquiries at the club to seize the CCTV found that while there was a digital system fitted at the premises, the

cameras did not cover the area where the pool table was situated and in any case no one knew how to download images, and so the system was of no immediate use. Officers who attended the scene and dealt with the offenders described them as being heavily intoxicated either through drink or drugs or both. When Mr and Mrs Dunne were interviewed at Sittingbourne Police Station following the incident they both denied that any of the group had been drunk or had been drinking excessively. They also said that police would not have been called if the incident had ended with the ejection of the group following the fight with the pool cue. The police were only called because the car had been used to continue the altercation and had caused serious injury. There has been one previous call to these premises this year, which was on the 10th April 2009. This again was from Mrs Dunne, who reported that a person who had been ejected from the club for being drunk had broken a window. The police accept that apparently this premises has had little trouble in the past, however the admission by the DPS and her husband shows that we are not informed of even serious assaults. This incident was extremely serious, and it is the opinion of the police that it happened as a direct result of the alcohol consumed by the offenders, along with any other possible substances that they may have consumed. The premises has subsequently been swabbed, on Tuesday 21st April 2009, and tested using the Ion Track Drug Trace machine and a reading of 3.65 for cocaine from a swab taken from the cubicle in the gentleman's toilets was recorded. This indicates that there has been drug use within this area. While the initial incident within the premises with the pool cue was serious in itself, the incident outside with the car was worse and resulted in far worse injuries to three other people. The incidents outside the licensed premises were a continuation of the fight inside and are directly attributable to the club. It is necessary to apply for a review of this premises licence in order to ensure that the prevention of crime and disorder objective is addressed. The police ask that the Licensing Committee consider the below listed conditions which it is felt are necessary to ensure that incidents of this kind do not happen in the future. As interim conditions prior to a full review hearing, as a minimum the police ask the committee to consider the removal of the pool table and cues until the CCTV is fitted in accordance with the below conditions and that consideration is given to restricting the sale of alcohol to 1800 hours to 2300 hours Monday to Sunday, again until CCTV is fitted in accordance with the suggested conditions. Therefore the conditions are as follows: -

1. The sale of alcohol will be restricted to 1800 hours to 2300 hours Monday to Sunday until CCTV is fitted to the satisfaction of the police.
2. The premises will close at 2330 hours
3. A minimum of 2 SIA registered door staff will be employed on Friday and Saturday during the trading period and for any Bank Holiday Sunday and Monday.
4. The pool table in the main bar area will be removed until CCTV is fitted to the satisfaction of the police. The pool table in the children's area will remain but will be exclusively for the use of persons under the age of 16 years.

The further conditions I would ask the committee to consider, either at this interim step stage or at the full review stage, are as follows: -

1. CCTV to be fitted to a standard agreed to by the police that complies with The CCTV Code of Practice (2008 edition) produced by the Information

**Commissioners Office, with the entire public area of the premises to be monitored by CCTV.**

- 2. The CCTV system will be maintained and serviced on a regular basis and records kept to that effect.**
- 3. CCTV shall be operational at all time that members of the public and/or staff are on the premises.**
- 4. Images will be retained for a period of at least one calendar month by whatever means the licence holder deems appropriate.**
- 5. The Police or Local Authority will have access to these images at any reasonable time.**
- 6. The Police or Local Authority will be allowed to take a recording by way of tape, CD Rom or any other means of the image immediately on request.**
- 7. Staff will be fully trained in the CCTV system and there will be at least one member of staff on duty during trading hours who is able to provide a recording of any incident at the request of police or local authority.**
- 8. A minimum of 2 door supervisor will be employed at the premises from 2000 hours, on every Friday and Saturday until close of trading, and on every day of any Bank Holiday period again starting at 2000 hours until close of trading.**
- 9. An additional a minimum of 2 SIA registered door supervisors will be employed whenever the function room is in use from the time the event starts to the close of trading.**
- 10. All security staff will wear a reflective jacket, tabard or armband.**
- 11. All security staff will display their name badges by way of a reflective armband.**
- 12. It is the responsibility of the Designated Premises Supervisor to ensure that all incidents are reported to the police.**
- 13. A logbook will be kept detailing all incidents that occur at the premises. This will be a bound book which will detail the following: -**

**The day, date and time of the incident.**

**The member of staff making the entry.**

**All members of staff involved in the incident.**

**An account of the incident.**

**Details of any persons injured and the injuries sustained.**

**Any other details thought relevant.**

**Each day has to be signed and dated.**

- 14. A register will be kept of all security staff working at the premises for every time that the premises are open for trading. This register will be a bound book and it will contain the following information: -**

**Day and date of entry.**

Time that member of security staff starts and finishes work.

Full name.

SIA registration number.

Signature of the member of security staff.

15. Regular checks will be made in the toilets in order to discourage drug use within them. These checks will be a minimum of every 20 minutes during trading hours and will be logged.
16. Access will be given at all reasonable times to the police in order for swabs to be taken for the Ion Track Drug Testing machine.
17. Police will be permitted to use the Ion Track Drug Testing machine as a condition of entry at all reasonable times during trading hours.
18. All glassware to be removed and replaced by toughened or Polycarbonate glass and any bottled drinks to be decanted.
19. The premises will become a member of the Swale Safe radio network (subject to the agreement of the Board of Directors) whenever the network is able to operate in the Leysdown area.
20. All staff will be fully trained in their responsibilities under the Licensing Act and the training will be fully auditable and available to any responsible authority on request.

Signature of applicant:



Date: 22th April 2009

Capacity: Mid Kent Licensing Officer

Contact details for matters concerning this application:

Address:

Sittingbourne Police Station  
Central Avenue  
Sittingbourne  
ME10 4NR

Telephone number(s): 07980 770428

Email: barbara.murray@kent.pnn.police.uk

Notes for guidance:

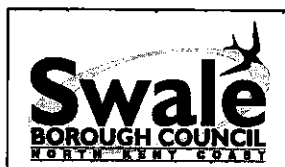
1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.



**Premises Licence number:** SHE/SWALE/189/0224

**Part 1 – Premises Details**

**Postal address of premises, or if none, ordnance survey map reference:**

Merlins  
47 Leysdown Road  
Leysdown

**Post Town:** Sheerness, Kent

**Postcode:** ME12 4RB

**Telephone number:** 01795 510210

**Where the licence is time limited, the dates:**

No limitation.

**Licensable activities authorised by this licence:**

- |  |   |
|--|---|
| <input type="checkbox"/> Sale of Alcohol           | <input type="checkbox"/> Facilities for Dancing |
| <input type="checkbox"/> Performance of Live Music | <input type="checkbox"/> Indoor Sporting Events |
| <input type="checkbox"/> Playing of Recorded Music | <input type="checkbox"/> Late Night Refreshment |

**The times the licence authorises the carrying out of licensable activities:**

**Sale of Alcohol:**

Monday – Saturday: 10:00hrs – 02:00hrs  
Sunday: 12:00hrs – 24:00hrs

**Dancing:**

Monday – Saturday: 10:00hrs – 02:00hrs  
Sunday: 12:00hrs – 24:00hrs

**Live Music:**

Monday – Saturday: 10:00hrs – 02:00hrs  
Sunday: 12:00hrs – 24:00hrs

**Sporting Events:**

Monday – Saturday: 10:00hrs – 02:00hrs  
Sunday: 12:00hrs – 24:00hrs

**Recorded Music:**

Monday – Saturday: 10:00hrs – 02:00hrs  
Sunday: 12:00hrs – 24:00hrs

**Late Night**

**Refreshment:**

Monday – Sunday: 23:00hrs - Close

**The opening hours of the premises:**

Monday – Saturday: 10:00hrs – 02:00hrs  
Sunday: 12:00hrs – 24:00hrs

**Where the licence authorises supply of alcohol, indicate whether on/off:**

On and Off the premises.



**Premises Licence number: SHE/SWALE/189/0224**

Part 2

**Name (registered) address, telephone number and e-mail of holder of the premises licence:**

**Mrs L Dunne**  
47 Leysdown Road  
Leysdown  
Sheerness  
Kent ME12 4RB  
Tel: 01795 872262

**Mr E Thompson**  
3/5 King Street  
Margate  
Kent  
Tel: 01843 571648

**Registered number of holder, company number or charity number:**

Not Applicable

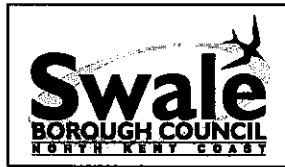
**Name, address and telephone number of the Designated Premises Supervisor, applicable in premises where the sale of alcohol will take place:**

**Mrs L Dunne**  
47 Leysdown Road  
Leysdown  
Sheerness  
Kent ME12 4RB  
Tel: 01795 872262

**Personal licence number and issuing authority of the personal licence, held by the named designated premises supervisor:**

Licence No: SWALE-PL-367  
Issued by: Swale Borough Council  
East Street  
Sittingbourne  
Kent ME10 3HT





**Premises Licence number:** SHE/SWALE/189/0224

Part 3

**Mandatory Conditions:**

- No sale of alcohol can take place where the designated premises supervisor is not a personal licence holder.
- Any door supervisors must be trained and SIA registered.
- (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.  
(2) In this paragraph, an 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.

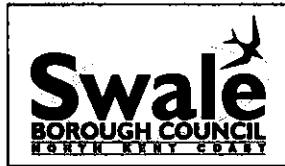
- The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
- The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
- 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.

- 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.

*Note for Entertainment Venues:*

- *The licensee's attention is drawn to the fact that due regard must be paid to the statutory nuisance provisions within the Environmental Protection Act 1990. Compliance with these criteria, the applied licence conditions and the agreed operating schedule does not preclude legal action being taken under the above legislation by either Swale Borough Council or an aggrieved individual.*



**Premises Licence number:** SHE/SWALE/189/0224

Part 4

**Conditions consistent with the operating schedule:**

- Only children accompanied by an adult to be allowed on the premises.
- Annual maintenance checks on electrics, emergency lighting, fire fighting equipment and gas to be carried out.
- Occupancy to not exceed 420.
- Licensed areas are the Family Bar & Restaurant, Beer Garden and the Main Hall.



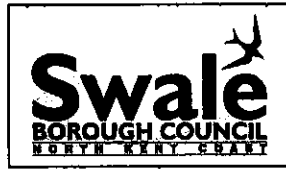
**Premises Licence number:** SHE/SWALE/189/0224

Part 5

**Conditions applied after a committee hearing:**

- Conditions attached after a hearing by the licensing authority:
- CCTV to be fitted to a standard agreed to by the police that complies with The CCTV Code of Practice (2008 edition) produced by the Information Commissioners Office, with the entire public area of the premises to be monitored by CCTV.
- The CCTV system will be maintained and serviced on a regular basis and records kept to that effect.
- CCTV shall be operational at all time that members of the public and/or staff are on the premises.
- Images will be retained for a period of at least one calendar month by whatever means the licence holder deems appropriate.
- The Police or Local Authority will have access to these images at any reasonable time.
- The Police or Local Authority will be allowed to take a recording by way of tape, CD Rom or any other means of the image immediately on request.
- Staff will be fully trained in the CCTV system and there will be at least one member of staff on duty during trading hours who is able to provide a recording of any incident at the request of police or local authority.
- From the second weekend in July to the first weekend in September inclusive 2 door staff will be employed at the premises from 2100 hours until finish of trading on every Friday and Saturday.
- At all other times outside of this period, between the first weekend in March to the last weekend in October, two SIA registered staff will be on duty at the premises from 2100 hours to close of trading on every Friday and Saturday. One of these persons may be a member of staff who is SIA registered. This condition will come into force from 26<sup>th</sup> June 2009.
- During all other periods there will be a minimum of one SIA registered member of staff on duty from 2100 hours to close of trading on every Friday and Saturday.
- It is the responsibility of the Designated Premises Supervisor to ensure that all incidents are reported to the police.

- A logbook will be kept detailing all incidents that occur at the premises. This will be a bound book which will detail the following: -
  1. The day, date and time of the incident.
  2. The member of staff making the entry.
  3. All members of staff involved in the incident.
  4. An account of the incident.
  5. Details of any persons injured and the injuries sustained.
  6. Any other details thought relevant.
  7. Each day has to be signed and dated.
- A register will be kept of all security staff working at the premises for every time that the premises are open for trading. This register will be a bound book and it will contain the following information: -
  1. Day and date of entry.
  2. Time that member of security staff starts and finishes work.
  3. Full name.
  4. SIA registration number.
  5. Signature of the member of security staff.
- Regular checks will be made in the toilets in order to discourage drug use within them. These checks will be a minimum of every 20 minutes during trading hours and will be logged.
- Access will be given at all reasonable times to the police in order for swabs to be taken for the Ion Track Drug Testing machine.
- Police will be permitted to use the Ion Track Drug Testing machine as a condition of entry at all reasonable times during trading hours.
- All glassware to be removed and replaced by toughened or Polycarbonate glass except for wine glasses and champagne flutes.
- The premises will become a member of the Swale Safe radio network (subject to the agreement of the Board of Directors) whenever the network is able to operate in the Leysdown area.
- All staff will be fully trained in their responsibilities under the Licensing Act and the training will be fully auditable and available to any responsible authority on request.



**Premises Licence number:** SHE/SWALE/189/0224

Part 6

**Authorisation.**

This licence is granted this day *Thursday 15<sup>th</sup> September 2005*

On behalf of the Borough Solicitor

## ANNEX C

## FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

Swale Council, Swale House, East Street, Sittingbourne, Kent, ME10 3HT

**Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use **additional sheets if necessary.**

I Supt Lukey [on behalf of] the chief officer of police for the North Division police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

**1. Premises details:**

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**Merlins  
47 Leysdown Road  
Leysdown**

Post town: Sheerness

Post code (if known): **ME12 4RB**

**2. Premises licence details:**

Name of premises licence holder (if known): Mrs L Dunne & Mr E Thompson

Number of premises licence holder (if known): SHE/SWALE/189/0224

**3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:**

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

**4. Details of association of the above premises with serious crime, serious disorder or both:**

[Please read guidance note 2]

At approximately 01:15 on Sunday 9<sup>th</sup> July 2017 there was a violent disturbance directly outside Merlins. This serious incident involved four males exiting Merlins club and immediately punching another four males to the head causing serious injuries.

**Injuries:**

Injured Person 1 – Male has suffered a fractured jaw in three places. This has required surgery and the insertion of a metal plate.

Injured Person 2 – Male was knocked unconscious at the time of the incident and required hospital treatment. This victim has subsequently suffered a potentially life threatening bleed on the brain.

Injured Person 3 - Male has suffered a black eye and bruising to the rib area.

Injured Person 4 - has suffered injuries to his facial area.

This is an incident of serious crime and disorder.

Three suspects for the offences are still outstanding and have yet to be located by police. One of the outstanding suspects is the son of the premises owner.

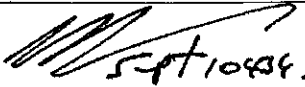
Merlins were in breach of their premises licence at the time of this incident by failing to comply with two conditions, which potentially could have prevented such an incident occurring or assisted in the subsequent police investigation.

Full evidence will be provided at the hearing.

In order to promote the licensing objectives of the prevention of crime and disorder, promotion of public safety and protection of children from harm, the interim step police seek is a suspension of the Premises Licence pending the full review hearing.

The suspension of the premise licence will allow the premises to reset pending the full review. During this period the police will be able to examine more closely the operation of the premises and should revocation not be sought, police and management may be able to agree necessary alterations to the operation of the premises including but not limited to: reduction in the operating hours, the requirement for door staff, and the potential change of management.



 5/10/17

Signature of applicant:

Date: 13<sup>th</sup> July 2017

Capacity: Superintendent Lukey - North Division

**Contact details for matters concerning this application:**

**Address: PC 12000 Chris Hill - North Division Licensing Officer  
Community Safety Unit  
Medway Police Station  
Purser Way  
Gillingham  
Kent  
ME7 1NE**

Telephone number(s): 01634 792276

Email: christopher.hill@kent.pnn.police.uk

**Notes for guidance:**

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

Kent Police  
Force Headquarters, Sutton Road, Maidstone, Kent ME15 9BZ

**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.

*Premises:* Merlins, 47 Leysdown Road, Leysdown, Kent, ME12 4RB

*Premises licence number (if known):* SHE/SWALE/189/0224

*Name of premises supervisor (if known):* Mrs Leonora Dunne

I am a Superintendent in the Kent Police Force

I am giving this certificate because I am of the opinion that the premises are associated with serious crime and that other procedures under the Licensing Act are inappropriate.

The nature of this offence is so serious as to justify the immediate decision to call an expedited review. Other powers under the licensing act, or other acts, are not appropriate and do not address the issue with immediate effect; a standard licence review would not suffice as it will take 28 days to come to hearing and may be appealed prior to application, allowing the public house to continue operating without any changes to its operation well into the summer period, where it could be reasonably anticipated it will be busier with the potential for heavier alcohol consumption. This will fuel the risk of further serious crime occurring before sufficient measures can be put into place to prevent crime and disorder.

The benefits of dealing with this by way of an expedited review allows an interim step of suspension to apply immediately, thereby safeguarding members of the public and preventing further offences.

On Sunday 9<sup>th</sup> July 2017 around 0115 hours a violent incident occurred directly outside Merlins between two groups of males. This serious incident involved four males exiting Merlins club and immediately punching another four males to the head causing serious injuries.

As a result of this incident:-

Victim 1 - has suffered a fractured jaw in three places. This has required surgery and a metal plate inserted into his jaw area. This is currently being investigated by Kent Police as assault occasioning Grievous Bodily Harm (GBH).

Victim 2 - was knocked unconscious at the time of the incident and required hospital treatment.

This victim has subsequently suffered a potentially life threatening bleed on the brain. This is currently being investigated by Kent Police as assault occasioning Grievous Bodily Harm (GBH).

Victim 3 - has suffered a black eye and bruising to his rib area. This is currently being investigated by Kent Police as assault occasioning Actual Bodily Harm (ABH).

Victim 4 - has suffered injuries to his facial area. This is currently being investigated by Kent Police as assault occasioning Actual Bodily Harm (ABH).

Merlins have been found to be in breach of their premises licence by failing to meet two conditions listed. These conditions were applied to the premises licence after a previous committee hearing and were felt necessary to promote the licensing objectives.

1. The premises had no SIA registered door supervisors present at the time of this incident. The premises licence details that two should have been present, a factor which could have potentially prevented this violent incident.

2. The premises licence also requires a member of staff to be on duty who can make CCTV recordings of any incident, this was not the case. Kent Police were not provided with the correct recorded copy of CCTV from Merlins as requested, a matter that has hindered the police investigation into this incident.

Kent Police are of the opinion that if the premises were to remain open to the public it may be a flashpoint for further incidents of serious crime and disorder. Furthermore, the Police wish to see this premises temporarily closed until a full review of the facts can be undertaken by the Council Licensing Committee with regard to the management of the premises. This enables consideration to be given as to whether further controls are required at the premises so as to prevent serious crime and disorder. Until this consideration is undertaken Police consider that there is a risk of serious crime and disorder reoccurring at the premises.

Due to the above, Police are seeking the interim step of suspension of the premises licence to prevent serious crime and disorder from reoccurring.

Superintendent Lukey



5/11/10 10434

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**LICENSING AUTHORITY:  
SWALE BOROUGH COUNCIL**

**Licensing Act 2003 Sub-Committee Hearing Procedure for  
Applications for Summary Review of a Premises Licence and Review of  
Interim Steps**

**Introduction and Procedure Full Review S53C**

**i) Introductions**

The Chairman will request all those persons participating in the hearing to identify themselves, starting with the:

- Members of the sub-committee (who will, if applicable, declare any personal or prejudicial interests)
- Legal advisor
- Committee clerk
- Swale Borough Council licensing officers/managers
- The licence holder/s (and any representative)
- The applicant for review Kent Police (and any representative)
- Each responsible authority (and any representative)
- Each other person (and any spokesperson or representative)

**ii) Procedural Matters**

• **Procedure**

The Chairman will:

- Confirm that all parties are aware of the sub-committee hearing procedure and that each party has a copy of the hearing procedure document.

- **Submissions**

The Chairman will:

- Explain that the sub-committee will allow all parties to put their case fully and make submissions, within a reasonable time frame.

- **Discussion and Questions**

The Chairman will:

- Explain that the sub-committee procedure shall take the form of a discussion led by the sub-committee.
- Explain that the sub-committee will usually permit questions (conducted within a reasonable time frame).

- **Disruptive Behaviour**

The Chairman will:

- Explain that where any person attending the hearing behaves in a disruptive manner, the sub-committee may direct that person to leave the hearing (including temporarily) and thereafter the person may submit to the sub-committee in writing any information which the person would have been entitled to give orally had the person not been required to leave the hearing.

- **Reading of Papers**

The Chairman will:

- Confirm that all sub-committee members have pre-read all the papers and any other documents contained in the report regarding the hearing.

- **Draft Conditions**

The Chairman will:

- Enquire whether draft conditions have been agreed between the licence holder/s and any of the other parties for the sub-committee to consider.

- **Witnesses**

The Chairman will:

- Enquire whether any parties request to have any witnesses give evidence at the hearing; and if so grant the request unless the request is unreasonable.
- Invite the parties, where appropriate, to appoint a spokesperson.



# The Hearing

## **Outline of the Application and Representations**

- The Chairman will ask the Licensing Officer to briefly outline the application and all representations regarding the application.

### **i) The Applicant for Review**

- Opening remarks by the applicant for review Kent Police (or their representative).
- Evidence of the applicant for review and any witnesses.
- After each person has given evidence the person may be questioned by the licence holder/s, each responsible authority, other persons and sub-committee members.
- If necessary, the applicant for review (or their representative) may clarify any matter that arose during questioning.

### **ii) Responsible Authorities (where applicable)**

<b>RESPONSIBLE AUTHORITY</b>	<b>Tick if applicable</b>
Trading standards	
Environmental Health	
Child Protection (Social Services)	
Planning	
Fire and Rescue	

- Opening remarks by the officer representing the responsible authority (or their representative).
- Evidence of the responsible authority officer and any witnesses.
- After each person has given evidence the person may be questioned by the applicant for review, the licence holder/s, each other responsible authority, other person and sub-committee member.
- If necessary, the officer (or their representative) may clarify any matter that arose during questioning.

### **iii) Other Persons**

- Opening remarks by the other persons (or spokesperson/s/representative/s).
- Evidence of the other persons and any witnesses.
- After each person has given evidence the person may be questioned by the applicant for review, the licence holder/s, responsible authorities, each other person and sub-committee members.

- If necessary, the other person/s (or spokesperson/representative) may clarify any matter that arose during questioning.

#### **iv) The Licence Holder/s**

- Opening remarks by the licence holder/s (or their representative).
- Evidence of the licence holder/s and any witnesses.
- After each person has given evidence the person may be questioned by the applicant for review, each responsible authority, other person and sub-committee member.
- If necessary, the licence holder/s may clarify any matter that arose during questioning.

## **Closing Speeches**

In the following order:

- The applicant for review (Kent Police)**
- Each responsible authority**
- Each other person**
- The licence holder/s**

## **End of Full Review Hearing**

- The Chairman will ask the members of the sub-committee if they have any final questions for any party to the full review hearing.
- The Chairman will ask the legal advisor whether there are any further matters to be raised or resolved before the full review part of the hearing is closed.
- The Chairman will invite the legal advisor to remain with the sub-committee during its deliberations.
- The Chairman will bring the full review part of the hearing to a close and shall declare that the sub-committee will retire, to private session, to consider the application, all relevant representations, evidence, the relevant extracts of Licensing Authority's Statement of Licensing Policy, the relevant extracts of the National Guidance issued under section 182 of The Licensing Act 2003 and the licensing objectives under the Licensing Act 2003.

## The Decision on Full Review

The Chairman shall declare in public session:

- The sub-committee's determination on the full review.
- All parties to the hearing will receive a copy of the written Determination Notice regarding the sub-committee's determination.
- All parties may appeal against the sub-committee's decision within 21 days beginning with the day on which the appellant is notified of the Licensing Authority's written determination. Appeals must be lodged with the Magistrates' Court. The decision of the sub-committee on the full review does not take effect until the period for appealing has ended, or if there is an appeal, upon completion of the appeal. Parties should be aware that the Magistrates' Court may make an order with respect to costs on any appeal.

### **PROCEDURE REVIEW OF INTERIM STEPS S 53 D**

Review of interim steps taken by Sub Committee on 13, April 2017, effective from 14, April 2017, to consider whether the steps are appropriate for the promotion of licensing objectives, consider any relevant representations and determine whether to withdraw or modify the interim steps taken.

The procedural matters from the full review will continue to apply and the order of procedure for the full hearing will be used for review of the interim steps commencing with,

- The Chairman will ask the Licensing Officer to briefly outline all representations regarding the interim steps.

And ending with,

- The Chairman will bring the interim steps review part of the hearing to a close and shall declare that the sub-committee will retire, to private session, to consider the application, all relevant representations, evidence, the relevant extracts of Licensing Authority's Statement of Licensing Policy, the relevant extracts of the National Guidance issued under section 182 of The Licensing Act 2003 and the licensing objectives under the Licensing Act 2003.

### **DECISION ON INTERIM STEPS REVIEW**

The Chairman shall declare in public session

- The sub-committee's determination on the interim steps review.
- All parties to the hearing will receive a copy of the written Determination Notice regarding the sub-committee's determination.
  - Any interim steps taken under s53D (3) today apply until the end of the period for appealing the s53C decision, (21days beginning with the day on which the appellant is notified of the Licensing Authority's written determination), and if there is an appeal of that decision the time when the appeal is disposed of, or the end of a period determined by the licensing authority, (which may not be longer than either of the above).

The Chief Officer of Police or the licence holder/s of the premises may appeal against the sub-committee's decision on interim steps within 21 days beginning with the day on which the appellant is notified of the Licensing Authority's written determination. Appeals must be lodged with the Magistrates' Court and must be heard within 28 days beginning with the day on which the appellant commenced the appeal. Parties should be aware that the Magistrates' Court may make an order with respect to costs on any appeal.

The Hearing is formally closed.



RECORD OF CONSIDERATION OF INTERIM STEPS

LICENSING ACT 2003 SS53A –C

**Applicant Summary Review:** Superintendent Lukey, Kent Police

**Premises:** Merlins, 47, Leysdown Road, Leysdown, ME12 4RB

**Licence Holders:** Mr s L. Dunne and Mr E. Thompson

**Date of Consideration:** 17, July 2017

**Licensing Sub Committee Members:** Cllr Mike Whiting (Chairman)

Cllr Tina Booth

Cllr Anita Walker

**Legal Advisor in attendance:** Robin Harris, Senior Lawyer (Contentious), MKLS

**Licensing Officer in attendance:** Mohammad Bauluck

DECISION AND REASONS

The Sub Committee have considered whether interim steps are necessary in this case. They have considered the grounds set out in the application for summary review and the oral representations made by Kent Police and the Licence holders. This included evidence in the summary review application and also the letter that was received during the interim steps hearing itself.

The Sub-Committee considered the options available to them and the interim step of suspension of the Licence requested by Kent Police.

The Sub-Committee decided to suspend the premises licence with immediate effect. This suspension will be in place until such time that the CCTV evidence is provided to Kent Police in an appropriate format.

In the event that the CCTV evidence is provided to Kent Police the suspension of the Licence will be relaxed to allow pre-existing booked private functions to go ahead, subject to the Licence being modified by the following conditions:

- 1) That during any private function there will be a minimum of 3 SIA door staff present for the entirety of the event.
- 2) That the public bar will remain closed and access to the public bar will be shut off.

**Reasons:**

The Sub-Committee were satisfied that the premises had failed to provide the Police with the CCTV evidence as required by their licence. This pointed to serious mismanagement of the premises, potentially by persons other than the Licence holders and DPS, a matter that was further evidenced by the letter that arrived during the interim steps hearing. This matter must be corrected prior to the licence being reinstated.

The Sub-Committee noted in favour of the premises that there has not been a serious incident at the venue since 2009, the Public Bar was open on the weekend of the 15<sup>th</sup> July 2017 without incident and the premises have taken some steps to comply with the conditions on their licence.

Nevertheless, the Sub-Committee were of the view that the premises would benefit from a period of suspension to 'reset' as the respondent themselves accepted that changes would need to be made to the management and operation of the premises in order to promote the licensing objectives.

On that basis, the proposed suspension and/or modified conditions are appropriate as interim steps prior to a full review of the licence, giving the licence holders and DPS time to make the necessary arrangements, whilst not preventing private functions that are wholly different in nature.

**Dated:** 17<sup>th</sup> July 2017

**Signed:** .....

A handwritten signature in black ink, appearing to be 'M. J.', written over a dotted line.