



**LICENSING AUTHORITY: SWALE BOROUGH COUNCIL**

**LICENSING ACT 2003  
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

**NOTICE OF DETERMINATION**

Application Ref No: SHE/SWALE/189/0703

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Applicant: Richard Smith and Amanda Williams

Regarding **PREMISE LICENCE**

Date(s) of hearing: 25 July 2018

Date of determination: 25 July 2018

Committee Members: [Chairman]: Councillor Tina Booth (Chairman)  
Councillor Roger Clark  
Councillor Paul Fleming

Legal Advisor in attendance at hearing(s): Robin Harris

Licensing Officer in attendance at hearing(s): Chris Hills.

This was an application for:

- Variation     Grant  
 Provisional Statement     Review     Other .....

for a

- Premises Licence     Club Premises Certificate     Personal Licence  
 Temporary Event Notice

**A: Representations, evidence and submissions:**

The Committee considered the representations, evidence and submissions of the following parties:

**Applicant**

- Name: Richard Smith and Amanda Williams
- Legal or other representative: Rachel Collier

**Responsible Authorities**

**a) Police – as agreed conditions**

**Other Persons**

Mr J Anderson

Witnesses and legal representatives in support of interested parties

- Andrew Gillet – Solicitor for Mr Anderson

**Representations considered in the absence of a party to the hearing:**

- N/A

**B: Consideration of the Licensing Act 2003, the Guidance under s. 182 of the Act and the Statement of Licensing Policy of Swale Borough Council**

The Committee has taken into account the following provisions of the Licensing Act 2003 and the Regulations thereto:

Section 13 which relates to responsible authorities;  
Section 16-24 which relate to the grant of a premises licence;

The Committee has taken into account the following provisions of the Guidance under section 182 of the Act:

Chapter 2 which relates to the licensing objectives  
Chapter 8 & 9 which relates to premises licences & determinations  
Chapter 10 which relates to conditions attached to licences;

The Committee has taken into account its Statement of Licensing Policy:

The Committee has decided to depart from the guidance under section 182 of the Act and or the statement of licensing policy for the following reasons:

Paragraphs and reasons (state in full): N/A

**C: Determination:**

**The Committee has decided to:**

- grant the application subject to modified conditions necessary for the promotion of the licensing objectives. If so, state the modified conditions:
  - 1) The premises shall produce and maintain a fire risk assessment to the satisfaction of Kent Fire and Rescue Service.
  - 2) The licensing hours on a Bank Holiday Monday will be the same as the licensing hours on a Sunday.

**Reasons for determination:**

■ **Prevention of Crime and Disorder**

Reasons (state in full): The Sub-Committee noted that there were agreed conditions with Kent Police regarding this licensing objective and were satisfied that these conditions were sufficient to promote the prevention of crime and disorder objective.

■ **Public Safety**

Reasons (state in full): The Sub-Committee noted that there was no representation from Kent Fire and Rescue Service or any other responsible authority regarding this licensing objective. However, the Sub-Committee had regard to the representations made by the Solicitor for Mr Anderson and were satisfied that the agreed condition was sufficient to deal with the concerns raised.

■ **Prevention of nuisance**

Reasons (state in full): The Sub-Committee noted that there was no representation from Environmental Health or any other responsible authority regarding this licensing objective. However, the Sub-Committee had regard to the representations made by the Solicitor for Mr Anderson regarding potential nuisance from the premises

particularly around late hours and smoking. The Sub-Committee reviewed the Section 182 guidance they were directed to by Mr Gillet which states:

2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

The Sub-Committee also noted the offer from the Applicant to reduce hours on Bank Holiday Mondays to Sunday hours which was agreed by the objector.

On balance the Sub-Committee determined that the risk of potential nuisance caused by smokers from the premises was speculative and not sufficient to refuse the licence, but wanted to reassure Mr Anderson that in the event of the premises causing neighbouring properties any nuisance, smoking or otherwise, there was the opportunity to review the premises licence to deal with any issues arising.

■ **Protection of children from harm**

Reasons (state in full): The Sub-Committee noted there were no representations under this licensing objective.

Parties aggrieved by a decision of the Licensing Sub-Committee have 21 days to appeal the decision by way of a complaint to the Magistrates Court.

PRINT NAME (CHAIRMAN): Councillor Tina Booth

Signed [Chairman]: A copy of the original document is held on file

Date: 25 July 2018