

Agenda Item No: 1 - Summary of Report

Licence Reference 21/01662/LAPRE

Report To: LICENSING SUB – COMMITTEE
(UNDER THE LICENSING ACT 2003)

Date: 6th September 2021

Report Title: TAP 17, 17 HIGH STREET, STAPLEHURST, KENT , TN27 9NH

Application for: A premises licence to be varied under the Licensing Act 2003

Report Author: Lorraine Neale

- Summary:**
1. The Applicant – Mrs Kelli Newman
 2. Type of authorisation applied for: To vary a premises licence under the Licensing Act 2003. (Appendix A)
 3. Licensable Activities and hours:

		Current Hours		Hours: New Application	
E)	Live Music (Indoors)	Monday to Thursday Friday and Saturday Sunday	12:00 - 21:00 12:00 - 22:00 12:00 - 16:00	Monday- Saturday Sunday	12:00 – 23:00 12:00 – 22:30
F)	Recorded Music (Indoors)	Monday to Thursday Friday and Saturday Sunday	12:00 - 21:00 12:00 - 22:00 12:00 - 16:00	Monday- Saturday Sunday	12:00 – 23:00 12:00 – 22:30
M)	Supply of alcohol (On & Off the premises)	Monday to Thursday Friday and Saturday Sunday	12:00 - 21:00 12:00 - 22:00 12:00 - 16:00	Monday- Saturday Sunday	12:00 – 23:00 12:00 – 22:30
O)	Opening Hours	Monday to Thursday Friday and Saturday Sunday	12:00 - 21:00 12:00 - 22:00 12:00 - 16:00	Monday- Saturday Sunday	12:00 – 23:00 12:00 – 22:30

The variation also includes a plan that seeks to include the outside areas (front and rear of the property) as the licensed premises. (Appendix 3)

Affected Wards: Headcorn

Recommendations: **The Committee is asked to determine the application and decide whether to vary the premises licence.**

Policy Overview: The decision should be made with regard to the Secretary of State's Guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and that such departure be supported by proper reasons.

Financial Implications: Costs associated with processing the application are taken from licensing fee income.

Other Material Implications: **HUMAN RIGHTS:** In considering this application it is appropriate to consider the rights of both the applicant and other parties, such as “**responsible authorities**” and/or “**other persons**” (objectors). The procedure for determining licences has a prescribed format to ensure fair representation of the relevant facts by all parties.

LEGAL: Under the Licensing Act 2003 the **Licensing Authority** has a duty to exercise licensing control of relevant premises.

Background Papers: Licensing Act 2003
DCMS Guidance Documents issued under section 182 of the Licensing Act 2003 as amended
Maidstone Borough Council Statement of Licensing Policy

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Agenda Item No. 1

Report Title: TAP 17, 17 HIGH STREET, STAPLEHURST, KENT , TN27 9NH

Application to: Vary a premises licence under the Licensing Act 2003.

Purpose of the Report

The report advises Members of an application to vary a Premises Licence under the Licensing Act 2003,(Appendix 1), also a confirmation e-mail to Licensing to make amendments to the application (Appendix 2) , made by Mrs Kelli Newman for Tap 17, 17 High Street, Staplehurst, Kent , TN27 9NH in respect of which 1 response has been received from other persons (Appendix 4).

Issue to be Decided

Members are asked to determine whether to :

Grant the application as applied for, or

Grant the application and modify conditions of the licence, or

Reject all or part of the application

Background

1. The relevant sections are Part 3 S13 and 34 – 36 of The Licensing Act 2003 and section 4 of The Licensing Act 2003 in particular the Licensing Objectives:

The prevention of crime and disorder;
Public Safety
The prevention of public nuisance; and
The protection of children from harm

2. The application has been correctly advertised in the local press and notices displayed on the premises for the required period.
3. There were no representations received from responsible authorities.
4. 1 response was received from other persons.
5. The table below illustrates the relevant responses which have been received

	Responsible Authority /Interested Party	Licensing Objective	Associated Documents	Appendix
	Objections			
1	Andrew and Jill McVarish	Public Nuisance	E-mail	4

The objectors are concerned that this application will have significant adverse disturbance effect on nearby residents. They are the landlords of a commercial and residential property in close proximity to the licensed premises and believe the extended hours would increase noise nuisance and have an adverse effect on their ability to rent out their properties. They believe the premises would create a public nuisance to any future tenant.

On the 7th September 2021 the applicant e-mailed a letter to the Licensing Department addressing the issues raised in the objection which is attached as Appendix 5.

The premises has a current licence, Appendix 6 and Current plans Appendix 7. The current licence holder is the applicant

6. The current licence hours are as per the licence attached at appendix 6 and set out at 3 of the summary above. The application also seeks to include the outside areas (front and rear of the property) as the licensed premises (Appendix 3)
7. **Members are advised that applications cannot be refused in whole or in part, or conditions attached to the licence unless it is appropriate to do so to promote the licensing objectives.;**
8. Relevant sections of **The Guidance issued under section 182 of The Licensing Act 2003;**

Chapters 8 (8.42 onwards) & 9 Premises Licences & Determining Applications

Chapter 10 Conditions.

Relevant policy statements contained in the Licensing Authority's Statement of Licensing Policy:

Relevant policy statements contained in **the Licensing Authority's Statement of Licensing Policy:**

17.19. Prevention of Public Nuisance

17.19 CONDITIONS TO PROMOTE THE PREVENTION OF PUBLIC NUISANCE.

The applicant will be expected to detail any appropriate and proportionate steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises.

17.20 The applicant will be expected to demonstrate that they have considered the following and included steps to prevent public nuisance:

- (i) Proximity of local residents to the premises
- (ii) Licensable activities proposed and customer base
- (iii) Hours and nature of operation
- (iv) Risk and Prevention of noise leakage from the premises from equipment, customers and machinery
- (v) Prevention of noise from customers leaving the premises and customer pick up points outside premises and from the Car Park.
- (vi) Availability of public transport to and from the premises
- (vii) Delivery and collection times and locations.
- (viii) Impact of external security or general lighting on residents.
- (ix) History of management of and complaints about the premises.

- (x) Applicant's previous success in preventing Public Nuisance.
- (xi) Outcomes of discussions with the relevant Responsible Authorities.
- (xii) Impact of location, noise and contamination from outside smoking areas on neighbours and other customers
- (xiii) Collection of litter arising from the premises

17.21 Steps to prevent public nuisance may include a range of options including noise limiting devices, sound insulation, wind down periods, acoustic lobbies, management of smoking areas etc.

17.22 Steps will differ depending on the individual premises and activities and it is for the applicant to ensure that reasonable, effective and appropriate steps are included within the operating schedule.

9. Options

Legal options open to members -

Grant the variation application as applied for., or

Grant the variation and modify conditions of the licence, or

Reject all or part of the application.

Members of the Licensing Act 2003 – Licensing Sub – Committee are reminded of their duty under section 17 of the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the Licensing Authority's responsibility to co – operate in the reduction of crime and disorder in the Borough

Section 17 of the Crime and Disorder Act 1988 states:

"Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that it reasonably can prevent, crime and disorder in its area".

12. Implications Assessment

The decision should be made with regard to the Secretary of State's Guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from either the Guidance or the policy clear and cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal/challenge is increased.

13. Human Rights

While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 – Right to respect for private and family life
- Article 1 of the First Protocol – Protection of Property
- Article 6(1) – Right to Fair Hearing

- Article 10 – Freedom of Expression

The full text of each Article is given in the attached Appendices

14. **Conclusion**

Members must ensure that the application is considered on its merits, as well as against the relevant guidance, policy and statutory framework.

15. **List of Appendices**

Appendix 1	Application Form
Appendix 2	Confirmation of application amendments
Appendix 3	Plans (new)
Appendix 4	Objection
Appendix 5	Applicants response letter to objection
Appendix 6	Premise Licence
Appendix 7	Plans
Appendix 8	Plan of area
Appendix 9	Human Rights Articles
Appendix 10	Order of Proceedings

16. **Appeals**

The applicant or any other person(objector) may appeal the Licensing Act 2003 Sub Committee's decision within 21 days beginning with the day on which the Appellant is notified. All/any appeals must be lodged with the Magistrates' Court. Parties should be aware that they MAY incur an Adverse Costs Order should they bring an appeal.

Contact: Email:	Senior Licensing Officer lorryneale@maidstone.gov.uk
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