

MAIDSTONE BOROUGH COUNCIL

Licensing Act 2003 Sub Committee

**MINUTES OF THE MEETING HELD ON FRIDAY 17 SEPTEMBER
2021**

Present: Councillors Brindle, Mrs Grigg (Chair) and Naghi

8. APOLOGIES FOR ABSENCE

There were no apologies.

9. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

10. ELECTION OF THE CHAIRMAN

RESOLVED: That Councillor Grigg be elected as Chair for the duration of the meeting.

11. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members and Officers.

12. DISCLOSURES OF LOBBYING

Councillor Brindle had been lobbied on Item 7 – Application to vary a premise licence under the Licensing Act 2003 for Tap 17, 17 High Street, Staplehurst, Kent, TN27 9NH.

13. EXEMPT ITEMS

RESOLVED: That all items be taken in public as proposed.

14. APPLICATION TO VARY A PREMISE LICENCE UNDER THE LICENSING ACT 2003 FOR TAP 17, 17 HIGH STREET, STAPLEHURST, KENT , TN27 9NH

The persons participating in the hearing were identified as follows:

Chairman – Councillor Grigg

Committee Member – Councillor Brindle

Committee Member – Councillor Naghi

Legal Advisor – Mr Robin Harris

Senior Licensing Officer – Lorraine Neale (in attendance virtually)

Democratic Services Officer – Miss Oliviya Parfitt

Applicant – Mrs Kelli Newman

All parties confirmed that they were aware of the Sub-Committee hearing procedure and had each received a copy of the hearing procedure document.

The Sub-Committee agreed to proceed in the absence of the objector and noted the additional comments received that had been distributed to the panel Members. The Sub-Committee confirmed that they had read the papers.

The Chair explained that:

- The Sub-Committee would allow all parties to put their case fully and make full submissions within a reasonable time frame.
- The procedure would take the form of a discussion led by the Sub-Committee and they would usually permit cross-examination conducted within a reasonable timeframe.
- Any person attending the hearing who behaved in a disruptive manner may be directed to leave the hearing by the Sub-Committee (including temporarily) after which, such person may submit to the Sub-Committee over the Instant messaging facilitating any information which that person would have been entitled to give orally had the person not been required to leave the meeting. If this is not possible, they may be permitted to speak at the Chair's Invitation.

The Chair enquired whether any draft conditions had been agreed between the applicant and other parties; no draft conditions had been agreed.

The Senior Licensing Officer introduced the report and noted a correction to the premises' address as shown, which was located in 'Headcorn' rather than 'Staplehurst'. The variation application was outlined, with specific attention drawn to the objection received at Appendix 4 to the report and the further comments received via email.

The applicant was invited to make their opening statement and stated that it was not their intention to consistently keep the business open for the hours as applied for, but that the choice and flexibility to remain open was the primary aim.

The applicant had not received any complaints from any neighbours, the Parish Council or the Police in relation to the premises and felt that the business was run and managed well. There were two other premises locally that provided live music which could be heard from the applicant's

premises, with the applicant confirming that recorded music was played inside of the venue with any live music previously provided by either a solo pianist or guitarist.

The applicant intended to rearrange the outdoor seating to provide greater privacy along the shared access with the tenant living above the premises. The importance of social distancing between customers was highlighted.

The variety offered by the venue was reiterated alongside the clientele it attracted due to its small size. The growth of the surrounding village and general noise was referenced.

In response to questions from the panel, the applicant confirmed that they had live music indoors only and would likely open the premises until 6 p.m. or 8 p.m. on Sundays as the business still attracted customers close to its current closing time of 4 p.m.

Mr Harris clarified that the only licensable activity that the panel should consider was the additional hours requested for the supply of alcohol, due to the deregulation of regulated entertainment. This was supported by the Senior Licensing Officer.

The applicant was invited to make the closing speech, in which they referenced the objectors' comments in relation to their tenant which they did not believe to be justified. The applicant stated that upon the objector informing them of their objection, they confirmed that they had not read the variation application submitted.

The Chair advised that the Sub-Committee would retire for deliberation with the legal advisor present.

The meeting was adjourned for deliberations between 10.23 a.m. to 10.40 a.m.

The Sub-Committee returned and the Chair stated that the decision had been made to grant the application in full.

It was confirmed that a written decision notice would be provided within five working days. Parties were reminded of the right of appeal to the Magistrates Court.

The meeting closed at 10.41 a.m.

RESOLVED: That the Sub-Committee's decision and reasons be provided within the Notice of Determination attached as an Appendix to the Minutes.



LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

NOTICE OF DETERMINATION

Application Ref No: 21/01662/LAPRE

Applicant: Mrs Kelli Newman

Regarding **PREMISE LICENCE (VARIATION)**
Tap 17 High Street Headcorn Kent TN27 9NH

Date(s) of hearing: 17th September 2021

Date of determination: 17th September 2021

Committee Members: Councillor Mrs Grigg (Chairman), Councillor Mr Naghi and Councillor Mrs Brindle

Legal Advisor in attendance at hearing: Mr Robin Harris

Democratic Services Officer in attendance at hearing: Miss Oliviya Parfitt

Online Meeting Facilitator: Miss Oliviya Parfitt

Senior Licensing Officer in attendance at hearing: Ms Lorraine Neale (Remote attendance)

This was an application for:

Variation

for a

Premises Licence

A: Representations, evidence and submissions:

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

Applicant

Name: Mr Kelli Newman
Legal Representative: N/A

Responsible Authorities

None

Other Persons

Mr and Mrs Andrew and Jill McVarish

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 Maidstone Borough Council

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

Section 4 which relates to the licensing objectives;
Sections 34 - 36 which relate to the variation 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
Chapters 8 & 9 which relate to premises licences & determinations
Chapter 10 which relates to conditions attached to licences;

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

Chapter 17.9 which relates to prevention of crime and disorder
Chapter 17.16 which relates to the promotion of public safety

Chapter 17.19 which relates to the prevention of nuisance
Chapter 17.23 which relates to the protection of children from harm.

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:

N/A

C: Determination:

The Committee has decided to:

- Grant the application as applied for.

Reasons for determination:

Prevention of Crime and Disorder

Reasons (state in full):

There were no representations made under this licensing objective.

Public Safety

Reasons (state in full):

There were no representations made under this licensing objective.

Prevention of Public Nuisance

The sub-committee had regard to the representations made by the applicant at the hearing and the written representations received from the objectors. The sub-committee noted that in respect of regulated entertainment, these matters fell within legal exemptions and therefore did not require consideration by the panel. The matter to be determined being the likely impact on the licensing objectives of additional hours for the sale of alcohol amounting to 2 more hours Monday to Thursday, 1 more hour on Fridays and Saturdays and 6 and a half more hours on a Sunday.

The sub-committee heard from the applicant that the premises was a quiet and small establishment and that it was likely that on Sundays that the hours applied for would not necessarily be used, but would be available.

In respect of the representations from other persons, the sub-committee considered them to be speculative.

The sub-committee considered that the application as applied for was capable of promoting the licensing objectives and therefore granted the application.

Protection of Children from Harm

Reasons (state in full):

There were no representations made under this licensing objective.

PRINT NAME (CHAIRMAN): COUNCILLOR MRS GRIGG

Signed [Chairman]:

A copy of the original document is held on file

Date: 17th September 2021