

**Agenda Item**      **1 - Summary of Report**  
**No:**  
**Licence**            **15/00762/LAPRE**  
**Reference**  
**Report To:**        **LICENSING SUB – COMMITTEE**  
                              **(UNDER THE LICENSING ACT 2003)**  
**Date:**              **21 APRIL 2015**

**Report Title:**     **THE BELL**  
                              **THE STREET**  
                              **BREDHURST**  
                              **GILLINGHAM**  
                              **KENT ME7 3JY**

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

**Report Author:**   **Lorraine Neale**

- Summary:**
1. The Applicant – Greene King Brewing And Retailing Limited
  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	
B)	Films	Sun –Thurs Fri & Sat	11:00-23:30 11:00-00:00	Sun –Thurs Fri & Sat	11:00-23:30 11:00-00:00
C)	Indoor Sporting Events	Sun –Thurs Fri & Sat	11:00-23:30 11:00-00:30	Sun –Thurs Fri & Sat	11:00-23:30 11:00-00:30
E)	Live Music	Sun –Thurs Fri & Sat	11:00 -23:00 11:00-00:00	Sun –Thurs Fri & Sat	11:00 -23:00 11:00-00:00
F)	Recorded Music	Sun –Thurs Fri & Sat	11:00 -23:00 11:00-00:00	Sun –Thurs Fri & Sat	11:00 -23:00 11:00-00:00
H)	Anything similar to E, F, or G	Sun –Thurs Fri & Sat	11:00 -23:00 11:00-00:00	Sun –Thurs Fri & Sat	11:00 -23:00 11:00-00:00
I)	Late Night Refreshment	Mon - Sun	11:00 – 00:00	Mon - Sun	11:00 – 00:00
J)	Sale or Supply of Alcohol	Mon – Sat Sun	11: 00 – 00:00 12:00 – 00:00	Mon –Sun	10: 00 – 00:00
L)	Opening hours	Mon - Sun	11:00 – 00:00	Mon –Sun	09:00 – 00:30

**N.B. Non standard opening hours On Friday, Saturday, Sunday and Monday of Bank Holiday weekends and on Christmas Eve and on Boxing Day, the sale of alcohol is permitted 11:00 to 01:00 hours and the hours for all licensable activities are extended also.**

**Affected Wards:** Boxley

**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:** THE BELL, THE STREET, BREDHURST, GILLINGHAM, KENT  
ME7 3JY

**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 A), made by Greene King Brewing And Retailing Limited for The Bell, The Street, Bredhurst, Gillingham, Kent ME7 3JY (Appendix B) in respect of which 10 objections have been received from other persons (Appendix C).

### Issue to be Decided

Members are asked to determine whether to 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 a notice displayed on the premises for the required period.
3. There were no representations received from responsible authorities.
4. 10 representations were received from other persons.

The table below illustrates the relevant representations which have been received

Responsible Authority/Interested Party	Licensing Objective	Associated Documents	Appendix
Stephen & Jane Page	Public Nuisance Public Safety	E mail	C
Ian & Sue Bowen	Public Nuisance	E mail	C
Richard & Sarah Collins	Public Nuisance Public Safety	E mail	C
John Loomes	Public Nuisance	E mail	C
John and Valerie Sanders	Public Nuisance	E mail	C
Steve & Penny Thornton	Crime and Disorder Public Nuisance Public Safety	E mail	C

James Chalmers	Public Nuisance Public Safety	E mail	C
Mr and Mrs Stacey	Public Nuisance	E mail	C
Wendy Kemp on behalf of Bredhurst Parish Council	Crime and Disorder Public Nuisance Public Safety	E mail	C
Hilary and Christopher Butler	Public Nuisance	E mail	C

The variation has been applied for as there is significant refurbishment being made to the premises and new plans of the premises have needed to be submitted. At the same time the applicant has requested the removal of a redundant condition, alterations to the authorised hours of the sale and supply of alcohol in the morning only and a request to extend opening hours in the morning and for 30 minutes at the end of licensable activity hours (see the table at page 1). There are no objections to the refurbishment, removal of condition or the specifically extending the hours of alcohol sale. The general objections are to the extending the opening hours at the end of the day by 30 minutes. The main objections are in relation to public nuisance by noise from the garden area, rowdy customers leaving the premises on foot or by car and those waiting for transport outside after closing. Public safety is a concern in relation to glass and bottles being discarded and persons being on an unlit and partially unpaved road. It is believed that anti social behaviour will increase. Residents and the Parish Council believe that an extension of opening hours at the end of the day would be unreasonable and detrimental to residents of a semi rural village.

5. The premises has a current licence, Appendix D. The current licence holder is the applicant and the DPS is Mr Grant Ravenscroft.
6. The current licence hours are as per the licence attached at appendix D.
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:**
  - i. **Chapters 8 (8.42 onwards) & 9 Premises Licences & Determining Applications Chapter 10 Conditions NB: There is Home Office Supporting Guidance on Pools of Conditions but this is not statutory guidance. Relevant policy statements contained in the Licensing Authority's Statement of Licensing Policy:**
  - ii. Relevant policy statements contained in **the Licensing Authority's Statement of Licensing Policy:**

**20. Prevention of Crime and Disorder**  
**21. The Promotion of Public Safety**  
**22. Prevention of Public Nuisance**  
**20. Prevention of Crime and Disorder**

### **Concerns**

The applicant should consider factors arising from the premises or the activities of their customers within the vicinity of the premises that may impact on the prevention of crime and disorder. These may include:

- Underage drinking

- Drunkenness on premises
- Public drunkenness
- Drugs
- Violent behaviour
- Anti-social behaviour

### **Additional Steps**

The following examples of additional steps are given as examples for applicants to consider in addressing the above concerns in the preparation of their Operating Schedule, having regard to their particular type of premises or activities:-

- Effective and responsible management of premises.
- Training and supervision of staff.
- Adoption of current best practice guidance (some examples are Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit, and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA).
- Acceptance of accredited 'proof of age' pass cards or 'new type' driving licences with photographs, passports or an official identity card issued by H M Forces.
- Provision of effective CCTV in and around premises.
- Employment of Security Industry Authority licensed door staff. (If two or more are employed there must be at least one male and one female).
- Provision of toughened or plastic glasses.
- Provision of secure deposit boxes for confiscated items ('sin bins').
- Provision of litterbins, security measures, e.g. lighting, outside premises.
- Membership of a Pub Watch scheme.
- The current 'Chill Out Hour' operating at the late night venues in the Borough of Maidstone which is the agreement whereby late night venues cease to sell alcohol yet continue to provide music and dancing for a further hour (at a reduced volume and with the heavy bass beat removed) has proved to be a success in reducing late night crime and disorder.
- Membership of Maidsafe (Nite Net).

## **21. The Promotion of Public Safety**

The Licensing Authority wishes to ensure the safety of everyone on licensed premises.

### **Concerns**

#### **Capacity**

Where existing legislation does not provide adequately for the safety of the public, club members or guests, the occupancy capacity for premises and events (to include performers and staff) may be an important factor in promoting public safety. Subject to the requirements of the following paragraph the Licensing Authority will expect the issue of occupancy capacity and adequate controls of the numbers of persons on premises or attending an event to be considered by an applicant when completing an Operating Schedule. Where a relevant representation is received in respect of capacity the Licensing Authority will consider setting capacity limits in consultation with the Kent and Medway Fire and Rescue Authority for the following premises:

- Nightclubs
- Cinemas
- Theatres
- Other premises where regulated entertainment within the meaning of the Act is being provided.

The Applicant might also consider the following concerns when assessing the appropriate capacity for premises or events in the Maidstone area. These could include:-

- The design and layout of the premises.
- The nature of the premises or event.

- The nature of the licensable activities being provided.
- The provision or removal of temporary structures, such as a stage or furniture.
- The number of staff available to supervise customers both ordinarily and in the event of an emergency.
- The customer profile (e.g. age, disability).
- The attendance by customers whose first language is not English.
- Availability of suitable and sufficient sanitary accommodation.
- The nature and provision of facilities for ventilation.
- The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.

Where capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, the applicant will be expected to consider the arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.

### **Additional Steps**

The following examples of additional steps are given for applicants to consider in the preparation of their Operating Schedule, having regard to their particular type of premises or activities:-

- Suitable and sufficient risk assessments.
- Effective and responsible management of premises
- Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons.
- Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons.
- Adoption of best practice guidance.
- Provision of effective CCTV in and around premises.
- Provision of toughened or plastic non-disposable glasses/bottles.
- Implementation of crowd management measures.
- Regular testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety.

## **22. Prevention of Public Nuisance**

Licensed premises can cause adverse impacts on communities through public nuisance. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from any nuisance caused by the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

The Licensing Authority will interpret 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

### **Concerns**

When addressing the issue of prevention of public nuisance, the applicant should consider those factors arising from the premises or the activities of their customers within the vicinity of the premises that may impact on the likelihood of public nuisance. These may include:-

- The location of the premises and their proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship.
- The hours of operation, particularly if between 23.00 and 07.00.
- The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises.
- The design and layout of premises and in particular the presence of noise limiting features.
- The occupancy capacity of the premises.
- Last admission time.
- The steps the applicant has taken or proposes to take to ensure that staff leave the premises quietly.

- The steps the applicant has taken or proposes to take to prevent disturbance by patrons arriving or leaving the premises.
- Whether routes to and from the premises, on foot or by car or service or delivery vehicles, pass residential premises within the vicinity of the Premises.
- Whether other measures have been taken or are proposed such as the use of CCTV or the employment of registered door supervisors.
- The arrangements made or proposed for parking by patrons, and the effect of this parking on local residents.
- The likelihood of any violence, disorder or policing problems arising if a licence were granted.
- Whether taxis and private hire vehicles serving the premises are likely to disturb local residents.
- The siting of external lighting, including security lighting that is installed inappropriately.
- Whether the operation of the premises would result in increased refuse storage or disposal problems or additional litter in the vicinity of the premises and any measures or proposed measures to deal with this.
- The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licensees.

### **Additional Steps**

The following examples of additional steps are given as examples for applicants to consider in the preparation of their Operating Schedule, having regard to their particular type of premises or activities:-

- Effective and responsible management of premises.
  - Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance.
  - Control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries.
  - Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics).
  - Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
  - Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises.
  - The incorporation of measures for ensuring the safe and swift dispersal of patrons away from premises and events without causing nuisance or public safety concerns to local residents.
  - Effective ventilation systems to prevent nuisance from odour.
- N.B. Where relevant representations are received which the Licensing Sub Committee consider material particular consideration will be given to the impact on residential amenity of proposals for the provision of late night refreshment where these are either located in, or encourage people to move through, residential areas.

### **9. Options**

Legal options open to members -

- a) MODIFY the conditions of the licence.
- b) REJECT the whole 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".

#### 10. **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.

#### 11. **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

#### 12. **Conclusion**

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

#### 13. **List of Appendices**

Appendix A	Application Form
Appendix B	Plan of Premises set out the 3 plans separately with brief description.
Appendix C	Representations – Other persons
Appendix D	Existing Premises Licence
Appendix E	Plan of area
Appendix F	Human Rights Articles
Appendix G	Order of Proceedings

#### 14. **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.**

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