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Date: 12/12/2017
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LICENSING SUB COMMITTEE

19 DECEMBER 2017

A meeting of the Licensing Sub Committee will be held at **10.00 am on Tuesday, 19 December 2017** in the Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Membership:

Councillors: Crow-Brown, K Coleman-Cooke and Matterface

SUPPLEMENTARY AGENDA 2

Item
No

Subject

5. **APPLICATION FOR TEMPORARY EVENT NOTICE BY: JOHN FREDERICK MORPHY**
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**APPLICATION FOR TEMPORARY ACTIVITIES:
TEMPORARY EVENT NOTICE APPLICATION
BY: John Frederick Morphy**

Licensing Sub-Committee – 19th December 2017 at 10.45 a.m

Report Author **Philip Bensted Regulatory Services Manager**

Portfolio Holder **Cllr Lin Fairbrass Community Services**

Status **For Decision**

Classification: **Unrestricted**

Ward: **Westgate-on-Sea**

Executive Summary:

To consider this application for temporary activities in the light of objections made by Environmental Protection

Recommendation(s):

The instructions of the Sub-Committee are requested

CORPORATE IMPLICATIONS

Financial and Value for Money	None
Legal	<p>There is a right of appeal to a Magistrates' Court within 21 days of the date of the decision of the Licensing Sub-Committee with regard to the grant/refusal of a licence or any of the conditions attached to it.</p> <p>The Licensing Sub-Committee must pay proper attention to the applicant's rights under 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 applicant 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 and think hard about how it can cause the least possible harm to individuals, bearing in mind its duty to ensure the protection of the public.</p>
Corporate	None.
Equalities Act 2010 & Public Sector Equality Duty	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only</p>

	aim (i) of the Duty applies to Marriage & civil partnership.
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1.0 Introduction and Background

- 1.1 A temporary event notice has been received from John Frederick Morphy of The Bake & Alehouse, 21 St Mildreds Road, Westgate. The event is described as ‘to celebrate New Year’. There will be the following licensable activities, the sale of alcohol. It will take place on the 31st December between 5.30 p.m and 1 a.m at The Bake & Alehouse. The maximum number of people to be present will be 50. The applicant is the holder of a personal licence.
- 1.2 Part 5 of the 2003 Licensing Act provides a system of permitted temporary activities, under which licensable activities can be carried out on a temporary basis (for a period not exceeding 7 days) without the need for a premises licence or a club premises certificate. A copy of the notice is appended at Annex 1.

2.0 General Points

- 2.1 The Act provides for periods of notice and the number of events that may be held. Notice must be given to the Licensing Authority, Police and Environmental Protection ten working days before the beginning of the event period. The Police and Environmental Protection then have three working days to lodge objections with the Licensing Authority and Applicant. A copy of the Environmental Protection objection is appended at Annex 2.
- 2.2 Objections must relate to the undermining of the licensing objectives, the prevention of crime and disorder, public safety, the prevention of public nuisance, the protection of children from harm.
- 2.3 A copy of the premises licence for the Bake & Alehouse with times and conditions is attached at Annex 3.

3.0 Options

- 3.1 Grant the notice.
- 3.2 Refuse the notice.
- 3.3 Grant the notice with the conditions attached to the premises licence.

Contact Officer:	Philip Bensted, Regulatory Services Manager, ext 57630
Reporting to:	Penny Button, Head of Neighbourhood Services, ext 57425

Annex List

<i>Annex 1</i>	Temporary event notice
<i>Annex 2</i>	Environmental Protection objection
<i>Annex 3</i>	Premises licence

Background Papers

Agenda Item 5

Title	Details of where to access copy
N/A	

Corporate Consultation

Finance	N/A
Legal	N/A

Agenda Item 5
Annex 1

Post town	Post code
9. Alternative contact details (if applicable)	
Telephone numbers: Daytime	
Evening (optional)	
Mobile (optional)	
Fax number (optional)	
E-Mail Address (if available)	

2. The premises	
Please give the address of the premises where you intend to carry on the licensable activities or if it has no address give a detailed description (including the Ordnance Survey references) (Please read note 2)	
BAKE AND ALEHOUSE 21 ST. MILDREDS ROAD WESTGATE ON SEA KENT CT8 BRE	
Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)? If so, please enter the licence or certificate number below.	
Premises licence number	LN 12 01100162
Club premises certificate number	
If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)	
NA	
Please describe the nature of the premises below. (Please read note 4)	
PUBLIC HOUSE (SMALL MICRO PUB)	
Please describe the nature of the event below. (Please read note 5)	
90 MINUTE EXTENSION TO USUAL OPENING TIMES TO CELEBRATE NEW YEAR. (NO MUSIC SO THERE WILL BE NO UNUSUAL NOISE ACTIVITY.	

3. The licensable activities		
Please state the licensable activities that you intend to carry on at the premises (please mark an "X" next to the licensable activities you intend to carry on). (Please read note 6)		
The sale by retail of alcohol	<input checked="" type="checkbox"/>	
The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club	<input type="checkbox"/>	
The provision of regulated entertainment	<input type="checkbox"/>	
The provision of late night refreshment	<input type="checkbox"/>	
Are you giving a late temporary event notice? (Please read note 7)	<input type="checkbox"/>	
Please state the dates on which you intend to use these premises for licensable activities. (Please read note 8)		
5.30 PM 31 ST DECEMBER THRU 1.00 AM 1 ST JANUARY 2018 17.30 (PM) 31 ST DECEMBER THRU 1.00 (AM) 1 ST JANUARY 2018		
Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 9)		
17.30 THRU 1.00		
Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 10)		
Approx 50		
If the licensable activities will include the supply of alcohol, please state whether the supplies will be for consumption on or off the premises, or both (please mark an "X" next to the appropriate box). (Please read note 11)	On the premises only	<input checked="" type="checkbox"/>
	Off the premises only	<input type="checkbox"/>
	Both	<input type="checkbox"/>

4. Personal licence holders (Please read note 12)		
Do you currently hold a valid personal licence? (Please mark an "X" in the box that applies to you)	Yes	No
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If "Yes" please provide the details of your personal licence below:		
Issuing licensing authority		
Licence number	LN/2016 [REDACTED]	
Date of issue	[REDACTED] 2016	
Date of expiry		
Any further relevant details		

Philip Bensted

From: Christopher Brown
Sent: 12 December 2017 15:10
To: [REDACTED]@gmail.com
Cc: [REDACTED]@kent.pnn.police.uk; TDC Licensing; Philip Bensted; TDC Planning Enforcement
Subject: Re : TEN application - New Years Eve - The Bake and Alehouse, 21 St Mildreds Road Westgate
Attachments: F_TH_11_0034--313833.pdf; 3298_001.pdf

Mr Morphy,

I have been asked to comment on the above TEN application on behalf of Environmental Health.

I note that the application is for an extension in hours from 23:30pm until 01:00am on 31st December 2017 into the 1st January 2018.

On checking our records I note that your planning permission (attached) limits the operational hours to 08:00am until 23:30pm Monday to Saturday and 10:00am until 23:30pm on Sunday. By operating this TEN you will be in breach of your planning permission. I have checked the Environmental Health Officers comments and the hours were conditioned to protect residential amenity.

I have also attached the revised guidance from section 182 of the Licencing Act 2003. Section 7.7 states that 'A TEN does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required'.

Based on this information Environmental Health will object to your application on the grounds of the prevention of Public Nuisance and the Prevention of Crime and Disorder. Unfortunately this position will not change unless the planning permission was to change. If you wish to investigate this please contact the Planning Department directly.

Regards,

Christopher Brown
Environmental Protection Officer
Thanet District Council
www.thanet.gov.uk
Direct Dial: 01843 [REDACTED]
E-mail: [REDACTED]@thanet.gov.uk

Thanet District Council



Notification of Grant of Permission to Develop Land
Town and Country Planning Act 1990
Town and Country Planning (Development Management Procedure) Order
2010

To: Mr [REDACTED]
[REDACTED]
Westgate on Sea
Kent
CT8 [REDACTED]

F/TH/11/0034

TAKE NOTICE that THANET DISTRICT COUNCIL, the District Planning Authority under the Town and Country Planning Acts, has granted permission for:

Proposal: Change of use from office to a micro pub (use class A4)

Location: 21 ST MILDREDS ROAD, WESTGATE ON SEA, CT8 8RE

referred to in your application for permission for development validated 17/01/2011.

The reason for the grant of permission is that:

In the view of the District Planning Authority and having taken all material considerations into account there is insufficient demonstrable harm arising from the proposal to warrant withholding planning permission.

In coming to this decision regard has been had to the following policies:

Thanet Local Plan Policy - D1

South East Plan Policy - BE1

This permission is SUBJECT TO the conditions specified hereunder:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

GROUND:

In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

- 2 Prior to the first use of the development hereby permitted refuse storage facilities shall be provided in accordance with details, which shall first be submitted to and approved in writing by the Local Planning Authority.

GROUND:

To secure a satisfactory standard of development and in the interests of the amenities of the area, in accordance with policy D1 of the Thanet Local Plan.

- 3 The premises hereby approved shall not be used other than between the hours of 0800 and 2330 Monday to Saturday in any week and between the hours of 1000 and 2330 on any Sunday or Bank Holiday.

GROUND:

To safeguard the residential amenities currently enjoyed by the occupiers of nearby residential properties in accordance with Policy D1 of the Thanet Local Plan.

- 4 At no time shall amplified music be played from the premises.

GROUND:

To safeguard the residential amenities currently enjoyed by the occupiers of nearby residential properties in accordance with Policy D1 of the Thanet Local Plan.

- 5 The development hereby approved shall be carried out in accordance with the submitted Block Plan received 17 January 2011.

GROUND:

To secure the proper development of the area.

Dated: 18/03/2011

Thanet District Council
P.O. Box 9
Cecil Street
Margate
Kent CT9 1XZ

Signed



B White
Director of Regeneration Services

7. Temporary Event Notices (TENs)

- 7.1 This Chapter covers the arrangements in Part 5 of the 2003 Act for the temporary carrying on of licensable activities which are not authorised by a premises licence or club premises certificate.

General

- 7.2 The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice to the licensing authority of the event (a “temporary event notice” or “TEN”).
- 7.3 The TEN must be given to the licensing authority in the form prescribed in regulations made under the 2003 Act. The form requires the user to describe key aspects of the proposed event, including the general nature of the premises and the event, the licensable activities intended to be carried on at the proposed event, including whether they will include any relevant entertainment as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (i.e. displays of nudity designed to sexually stimulate any member of the audience including, but not limited to, lap dancing and pole dancing).
- 7.4 Unless it is sent electronically, it must be sent to the relevant licensing authority, to the police and “local authority exercising environmental health functions” (“EHA”) at least ten working days before the event. A premises user may also give a limited number of “late TENs” to the licensing authority less than 10 working days before the event to which they relate, although certain restrictions apply (see paragraphs 7.12-7.14). “Working day” under the 2003 Act means any day other than a Saturday, Sunday, Christmas Day, Good Friday or Bank Holiday. For limited purposes in relation to a TEN, the 2003 Act defines a “day” as a period of 24 hours beginning at midnight.
- 7.5 If a TEN is sent electronically via GOV.UK or the licensing authority's own facility, the licensing authority must notify the police and EHA as soon as possible and no later than the first working day after the TEN is given.
- 7.6 The police or EHA (“relevant persons” for the purposes of TENs) may intervene to prevent such an event taking place by sending an objection to the licensing authority, which the licensing authority must consider on the basis of the statutory licensing objectives and decide whether the event should go ahead. A relevant person may also intervene by agreeing a modification of the proposed arrangements directly with the TENs user (see paragraph 7.36). If a relevant person sends an objection, this may result in the licensing authority imposing conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate. When giving a TEN, the premises user should consider the promotion of the four licensing objectives. The licensing authority may only otherwise intervene if the statutory permitted limits on TENs would be exceeded (see paragraphs 7.15-7.22).
- 7.7 A TEN does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required.



**Thanet District Council
Part A
Premises Licence**

Premises licence number

LN/201100162

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	
The Bake & Alehouse 21 St Mildreds Road	
Post town	Post code
Westgate on Sea, Kent	CT8 8RE
Telephone number	

Where the licence is time limited the dates

None

Licensable activities authorised by the licence

Supply of alcohol (on and off the premises)

The times the licence authorises the carrying out of licensable activities

Mon – Sat 12 noon to 10.45pm
Sundays 12 noon to 9.45pm

The opening hours of the premises

Mon – Sat 12 noon to 11pm
Sundays 12 noon to 10pm

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

On and off the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Mr John Frederick Morphy
[REDACTED], Westgate on Sea, Kent CT8 8AY
[REDACTED]

Registered number of holder, for example company number, charity number (where applicable)

Not Applicable

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

Mr John Frederick Morphy
[REDACTED], Westgate on Sea, Kent CT8 8AY
[REDACTED]

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

LN/201[REDACTED]

Thanet District Council

Issued on the 02 May 2016

To commence on the 14 April 2011

Regulatory Services Manager

P O Beston

Annex 1 – Mandatory conditions

No supply of alcohol may be made under the premises licence:-

- a) At a time when there is no designated premises supervisor in respect of the premises licence, or**
- b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended**

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

1. (1) The responsible person must 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—

(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 in a manner which carries a significant risk of undermining a licensing objective;

(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 in a manner which carries a significant risk of undermining a licensing objective;

(d) 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;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) 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 either—

(a) a holographic mark, or

(b) an ultraviolet feature.

4. The responsible person must 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;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

5. (1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

(2) For the purposes of the condition set out in paragraph 1 –

- a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
- b) “permitted price” is the price found by applying the formula –

$$P = D + (D \times V)$$

where -

- i. P is the permitted price,
- ii. D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- iii. V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence –

- i. The holder of the premises licence,
- ii. The designated premises supervisor (if any) in respect of such a licence, or
- iii. The personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

Annex 2 – Conditions consistent with the operating Schedule

No spirits will be sold or supplied from the premises.

Annex 3 – Conditions attached after a hearing by the licensing Authority

None

Annex 4 - Plans

Plans considered April 2011