

This report will be made public on 24 May 2018



## Report DCL/18/04

**To:** Licensing Sub-Committee  
**Date:** 4 June 2018  
**Status:** Non-Executive Decision  
**Head of service:** Ben Geering

**SUBJECT: AN APPLICATION FOR A NEW PREMISES LICENCE FOR BAR BACCHUS, 2 CHURCH STREET, FOLKESTONE, KENT CT20 1SE**

**SUMMARY:** This report sets out the facts for the Licensing Committee to consider in determining an application for a new premise licence. The licensing committee is the Licensing Authority acting in a role previously taken by the Magistrates Court. It is, therefore, not appropriate for officers to make additional comments other than in the capacity as a Responsible Authority under the legislation of the Licensing Act 2003. Therefore there are no comments from Legal, Finance or other officers included in this report.

### **REASONS FOR DETERMINATION:**

The Committee is obliged to determine the application with a view of promoting the 4 licensing objectives. In making its decision the Committee must also have regard to all the representations made and the evidence it hears. The Committee is obliged to have regard to the revised national section 182 guidance and the council's own licensing policy.

### **DETERMINATION:**

**The Licensing Sub-Committee is asked to:**

- 1. Note the contents of Report DCL/18/04.**
- 2. Determine the application. The options for determining the application are set out in section 5 below.**

## **1. BACKGROUND**

- 1.1 The Licensing Act 2003 provides that the sale or supply of alcohol on and off the premise and other licensable activities must be authorised by a premise licence.
- 1.2 The premise, 2 Church Street, Folkestone, Kent has been converted from a high street retail premises. It is proposed to be a high end cocktail and wine bar that will also serve cold food, cakes and coffee. The previous use of the premises did not require a premise licence.
- 1.3 The application seeks a premise licence to sell alcohol on the premises but does not seek either regulated entertainment or late night refreshment (No hot food, therefore, can be sold after 11pm).

A copy of the application is enclosed as Appendix 1.

- 1.4 The premise is situated in a predominantly commercial area although there is residential accommodation above adjacent retail premises and above these premises. There are restaurants, public houses and other licensed premises in the vicinity in addition to a wide variety of high street retail premises. The street outside is pedestrianised but vehicles are allowed access in the evening. There is good access to the local transport system being a short walk from the bus and train station and there is a taxi office close by.
- 1.5 The use of the premises is the subject of a planning application.

## **2. APPLICATION**

- 2.1 An application has been made for a premise licence by Mark Macfarlane.
- 2.2 The application is in relation to 2 Church Street, Folkestone, Kent.
- 2.3 The application is for the supply of alcohol on the premises only. No other licensable activities are proposed.

The hours in the application are;

For the supply of alcohol Sunday to Thursday 10am until 11pm and Friday and Saturday 10am until 1am.

The opening hours for Sunday to Thursday are 10am until 11pm and Friday and Saturday 10am until 1am.

These hours, however, do not allow for drinking up time. The applicant has agreed, therefore, to reduce the hours for alcohol supply as follows to allow drinking up time. The opening hours will remain the same.

The hours for the supply of alcohol amended to: Sunday to Thursday 10am until 10.30pm and Friday and Saturday 10am until 00.30am.

- 2.4 The applicant is mindful of their responsibilities, have an operating schedule in line with the draft Folkestone & Hythe District Council's Licensing Policy 2018 Code of Practice (Appendix 3) and has received copies of the objections (see Appendix 2).

### 3. OBSERVATIONS

- 3.1 The Committee must take such steps, as it considers necessary for the promotion of the licensing objectives:
- The prevention of crime and disorder
  - Public Safety
  - The prevention of public nuisance
  - The protection of children from harm
- 3.2 The Shepway DC Licensing Policy is available at:  
[http://www.shepway.gov.uk/media/4022/Licensing-Policy-Statement-2016-2021/pdf/Shepway\\_District\\_Council\\_-\\_Licensing\\_Policy\\_Statement\\_2016-2021.pdf](http://www.shepway.gov.uk/media/4022/Licensing-Policy-Statement-2016-2021/pdf/Shepway_District_Council_-_Licensing_Policy_Statement_2016-2021.pdf)
- 3.3 The Home Secretary has issued revised Guidance under Section 182 of the Licensing Act 2003. This is available at:  
<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

The Committee members are advised to read the new guidance thoroughly. Your attention is drawn to paragraphs 9.42, 9.43 and 9.44 in respect of the determination of the application. Additionally members are advised to refer to section 10 about imposing conditions. It is also good practice that if they propose to apply conditions they should be discussed with the applicant prior to the determination to ensure that they are proportionate.

### 4. RELEVANT REPRESENTATIONS

- 4.1 This hearing has been required by the Licensing Act 2003 because representation has been made by independent representatives. The only representation by any Responsible Authority is from Planning.

Responsible Authority	Comments
Kent Police	None
Environmental Health (Pollution)	None
Environmental Health (Commercial)	None
Kent Fire and Rescue	None
Planning	Has made representation.
Child Protection Agency	None

- 4.2 3 additional Representations have been received from other interested parties by the Licensing Authority regarding the application. These objections can be found in Appendix 2.

## **5. OPTIONS**

- 5.1 The licensing sub-committee has the following options:
- a) Grant the Licence as requested.
  - b) Grant the Licence but add conditions.
  - c) Reject whole or part of the application.
- 5.2 The committee is asked to note that it may not add conditions or reject the whole or part of the application merely because it considers it desirable to do so. Decisions must be evidence based, considered on a case by case basis and the committee must only consider evidence that relates to the 4 licensing objectives.

## **6. CONTACT OFFICERS AND BACKGROUND DOCUMENTS**

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

Arthur Atkins, Environmental Health and Licensing Manager  
Telephone: 01303 853242  
Email: [arthur.atkins@folkestone-hythe.gov.uk](mailto:arthur.atkins@folkestone-hythe.gov.uk)

No published documents have been relied upon in the preparation of the report.

### **Appendices:**

- Appendix 1. Application
- Appendix 2 Relevant Representations
- Appendix 3 Folkestone & Hythe District Council's Licensing Policy 2018 Code of Practice (draft)