



**LICENSING AUTHORITY: SWALE BOROUGH COUNCIL**

**LICENSING ACT 2003  
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

**NOTICE OF DETERMINATION**

Application Ref No: SHE/SWALE/189/0752

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Applicant: Mr Henry Eakin

Regarding **NEW PREMISES LICENCE – Neptune’s Café, Shellness Road, Leysdown.**

Date(s) of hearing: 9 October 2020

Date of determination: 9 October 2020

Committee Members: [Chairman]: Councillor Derek Carnell (Chairman)  
Councillor Carole Jackson  
Councillor Lee McCall

Legal Advisor in attendance at hearing(s): Robin Harris

Licensing Officer in attendance at hearing(s): Chris Hills

This was an application for:

- Variation       Grant  
 Provisional Statement     Review     Other .....

for a

- Premises Licence     Club Premises Certificate     Personal Licence  
 Temporary Event Notice

**A: Representations, evidence and submissions:**

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

**Applicant**

- Name: Mr Henry Eakin
- N/A

**Responsible Authorities**

None

**Other Persons**

Sharon Munns, Dawn Munns, Dianne Wade, Nicola Scott, Bill Tatton, Leysdown Parish Council

Witnesses and legal representatives in support of other persons

N/A

**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 Swale Borough Council**

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

Section 16-24 which relate to the grant 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

Chapter 8 & 9 which relates to premises licences & determinations

Chapter 10 which relates to conditions attached to licences;

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

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:

Paragraphs and reasons (state in full):

N/A

**C: Determination:**

**The Committee has decided to:**

Grant the application as applied for, noting that the application is for both on and off sales, subject to the conditions requested by Kent Police that have already been accepted and subject to the further amendment offered at the hearing today, namely that the hours for licensable activities will be from 10:00 Hrs to 22:00 Hrs daily. It is understood that on a practical level, the premises will close at 18:00 Hrs from October through to March, but opening hours are of themselves, not a licensable activity.

**Reasons for determination:**

■ **Prevention of Crime and Disorder**

Reasons (state in full):

The Sub-Committee had regard to the representations made in writing and at the hearing today in respect of this licensing objective. The Sub-Committee noted that there was no outstanding representation from Kent Police. The concerns held by the Police were met by the addition of the conditions agreed by the applicant in writing prior to the hearing. The Sub-Committee heard from the applicant that they have substantially upgraded the CCTV and other security measures at the site.

The Sub-Committee also heard from various objectors in relation to concerns around the sale of alcohol potentially leading to crime and disorder. The Sub-Committee felt that these concerns were largely speculative and could not be evidentially linked to this premises and this application. As such, the Sub-Committee were satisfied that the application promoted this licensing objective.

■ **Public Safety**

Reasons (state in full):

The Sub-Committee had regard to the representations made in writing and the comments made during the hearing today and were satisfied that the operating schedule for this premises is sufficient to promote this licensing objective.

The Sub-Committee noted that public safety as defined in the statutory guidance given under Section 182 of the Licensing Act 2003 has a relatively narrow meaning and many of the matters raised as concerns could not be considered under this licensing objective.

■ **Prevention of nuisance**

Reasons (state in full):

The Sub-Committee had regard to the representations made in writing and the further matters raised during the hearing today. The Sub-Committee noted that there was no representation from any responsible authority in respect of the application. The Sub-Committee heard from the applicant that having regard to the representations from other persons, he had decided to amend the hours for licensable activities to cease at 22:00 Hrs daily. This was earlier than other licensed premises in the area and this would ensure that patrons departed the area at a reasonable time.

The Sub-Committee heard from various objectors in relation to concerns regarding the potential for noise and litter being increased as a result of the availability of alcohol from the premises, but again, as a new application, these were largely speculative. Having considered all of the above, the Sub-Committee determined that the shorter hours proposed at the meeting were sufficient to promote this licensing objective.

■ **Protection of children from harm**

Reasons (state in full):

The Sub-Committee had regard to the representations made in writing regarding this licensing objective and were satisfied that the operating schedule for the premises is sufficient to promote this licensing objective.

The Sub-Committee noted that this licensing objective has a narrow definition under the Section 182 Guidance.

Cllr Derek Carnell (CHAIRMAN):



Signed:

A copy of the original document is held on file

Date: 9 October 2020