

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

Julie Beilby BSc (Hons) MBA

Gibson Building
Gibson Drive
Kings Hill, West Malling
Kent ME19 4LZ
West Malling (01732) 844522

NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.

Contact: Committee Services
committee.services@tmbc.gov.uk

18 April 2017

To: MEMBERS OF THE LICENSING AND APPEALS PANEL
(Copies to all Members of the Council)

**NB ONLY MEMBERS
OF THE PANEL MAY
PARTICIPATE**

Dear Sir/Madam

Your attendance is requested at a meeting of the Licensing and Appeals Panel to be held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Wednesday, 26th April, 2017 commencing at **12.00 pm or on the rising of the previous meeting of the Panel, whichever is the later.**

Yours faithfully

JULIE BEILBY

Chief Executive

AGENDA

PART 1 - PUBLIC

1. Apologies for absence

2. Declarations of Interest

Decisions to be taken under Delegated Powers

3. Application for a new Premises Licence for Amano Ltd, 47 Swan Street, West Malling 5 - 32

4. Urgent Items

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive

5. Exclusion of Press and Public 33 - 34

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information

PART 2 - PRIVATE

6. Urgent Items - Part 2

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

MEMBERSHIP

Cllr Mrs J A Anderson (Chairman)

Cllr M C Base

Cllr R V Roud

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TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

26 April 2017

Report of the Director of Central Services and Monitoring Officer

Part 1- Public

Delegated

1 APPLICATION FOR A NEW PREMISES LICENCE FOR AMANO LTD , 47 SWAN STREET, WEST MALLING, KENT ME19 6JU

1.1 Executive Summary

1.1.1 The Licensing & Appeals Committee sitting as a Panel is asked to consider an application for a Premises Licence under section 17 of the Licensing Act 2003 for the premises called Amano Ltd, 47 Swan Street, West Malling, Kent ME19 6JU.

1.1.2 This is a new application for Late Night Refreshment and the Supply of Alcohol.

1.2 Background and Introduction

1.2.1 The application was validated on the 1 March 2017, with the 28 day consultation period running from the 2 March 2017 until the 30 March 2017.

1.2.2 A map showing the location of Amano Ltd and surrounding properties is shown at **Annex 1**

1.2.3 A Satellite map showing the location of Amano Ltd and surrounding properties is shown at **Annex 2**

1.2.4 At any stage, during the 28 day public consultation period, a responsible authority, or an interested party, may make representations in connection with any of the four licensing objectives namely:-

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

Provided that the grounds for the request are relevant to the promotion of the licensing objectives and, in the case of requests by interested parties, are not vexatious, frivolous or repetitive, a hearing must be held to consider the application.

- 1.2.5 The Licensing Act 2003 requires the Council to publish a ‘Statement of Licensing Policy’ that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The Council’s current Statement of Licensing Policy was published in 2014 and will remain in force until 2019. The Policy will be available at the hearing, for reference purposes.
- 1.2.6 Under the 2003 Act, it is the duty of all licensing authorities that, in carrying out their functions, they must have regard to Guidance issued by the Secretary of State under section 182. The Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Provided that the licensing authority has properly understood and considered the guidance, it may depart from it when it has reason to do so. However, as the licensing authority is under a duty to have regard to the Guidance, it will need to give full reasons for its departure from it. The Guidance will also be made available at the hearing for reference purposes.

1.3 The application

- 1.3.1 The applicant is Amano Ltd, 47 Swan Street, West Malling, Kent ME19 6JU.
- 1.3.2 The application which was received on 1 March 2017, is attached to this report as **Annex 3**
- 1.3.3 The application details are as follows:

Section 14)	Provision of late night refreshment (Indoors only) - Monday until Sunday 23:00 hours until 00:00 hours (Midnight).
Section 15)	Supply of alcohol (Both on and off sales) – Monday until Saturday 10:00 hours until 00:00 hours (Midnight). Sunday 10:00 hours until 23:00 hours Non Standard Timings New Year’s Eve – to permit the Sale of Alcohol to members of the public from close of permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day

- 1.3.4 The Designated Premises Supervisor will be David Benavent.
- 1.3.5 The application states that the premises is to be operated as a hotel, with restaurant and café bar area. In relation to the licensing objective of the

prevention of public nuisance, the applicant's operating schedule states that *"the nature of the premises requires that the premises licence holder runs the premises in such a way as to avoid disturbance for its residents and guests. Because of the location of the premises, the nature of the operation and its general hours of operation no conditions are necessary to meet this objective."*

1.4 Reasons for referral

1.4.1 The Licensing Authority must under the Act refer any application for hearing to the Licensing & Appeals Committee, if relevant representations are made by a responsible authority or an interested party.

1.4.2 The Licensing Authority has, during the representation period received one representation from an interested party.

1.4.3 Representations received from statutory consultees:

Fire Safety has made no comments

Trading Standards has made no comments

Social Service has made no comments

Police has no objections

Environmental Health has no objections

Health & Safety has no objections

Planning

Made the following comment on 8 March 2017–

Further to the premises licence application, I can advise that the planning permission for the restaurant is TM/16/01629/FL which has condition 14 as follows and that appears to be incompatible with the hours requested for the premises licence.

The restaurant shall not be used or operated outside the hours of 9am to 11.30pm Mondays, Tuesdays, Wednesdays, 9am to Midnight, Thursdays, Fridays and Saturdays and 9am to 10.30pm on Sundays or Public and Bank Holidays. The last orders in the kitchen shall be 10pm Monday to Saturday.

Reason: To protect the aural environment of nearby dwellings.

- 1.4.4 One Representations has been received by an interested party and is shown at **Annex 4**
- 1.4.5 The applicant and other persons that have made representations have been invited to attend the hearing.

1.5 Policy Considerations

- 1.5.1 The following provisions of the Secretary of State's Guidance apply to this application:

Chapter 2 – The licensing objectives
 Chapter 8 – Applications for premises licences
 Chapter 9 – Determining applications
 Chapter 10 – Conditions attached to Premises Licences

- 1.5.2 The following paragraphs of the Councils' Statement of Licensing Policy apply to this application:

Sections 1.8 to 1.13 – These sections set out the Council's approach with regard to licensing and details other mechanisms to deal with potential problems.

Sections 2 – 6 – These sections set out the four licensing objectives and identifies matter that may be relevant to the promotion of each licensing objective.

In particular, Section 5 states that an applicant should demonstrate in their operating schedule that suitable and sufficient measures to prevent public nuisance have been identified and will be implemented. Paragraphs 5.1.5 and 5.1.6 require the applicant to demonstrate they have considered the relevant factors which may impact upon public nuisance, and the sorts of measures which should be considered.

1.6 Legal Implications - Determining the application

- 1.6.1 Section 4 of the Licensing Act 2003 requires the Licensing Authority to carry out its functions with a view to promoting the following Licensing Objectives -
- a) The prevention of crime and disorder
 - b) Public safety
 - c) The prevention of public nuisance
 - d) The protection of children from harm

Having regard to the relevant representations, the Panel must take such of the steps set out at paragraph 1.7.1 below, as it considers appropriate, for the promotion of the licensing objectives.

1.6.2 Section 18(10) of the Licensing Act permits the authority to grant a premises licence so that it has effect subject to different conditions in respect of:-

- Different parts of the premises concerned
- Different licensable activities covered

1.6.3 Section 4(3) of the Licensing Act also requires the Licensing Authority to have regard to the published statement of Licensing Policy and any guidance issued by the Secretary of State under section 182.

1.6.4 The Licensing Act 2003 section 181 and Schedule 5 makes provision for appeals to be made by the applicant and those making representations, against decisions of the Licensing Authority to the Magistrates Court

1.7 Options Open to the Panel

1.7.1 The steps an authority may take are –

1. Grant the licence subject to

- i. such conditions as are consistent with the operating schedule accompanying the application modified to such extent as the authority considers appropriate for the promotion of the licensing objectives, and
- ii. any conditions which must under section 19, 20 or 21 of the Licensing Act 2003 be included in the licence (the mandatory conditions).

2. Exclude from the scope of the licence any of the licensable activities to which the application relates;

3. Reject the application

1.8 Financial and Value for Money Considerations

1.8.1 None unless there is a successful appeal against the Panel decision to the Magistrates' Court. This could result in costs being awarded against the Council.

1.9 Risk Assessment

1.9.1 Departure from the Guidance and Policy could lead to an increased risk on an appeal. Similar risks arise if any decision made is not evidence based and proportionate.

1.10 Equality Impact Assessment

1.10.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.11 Recommendations

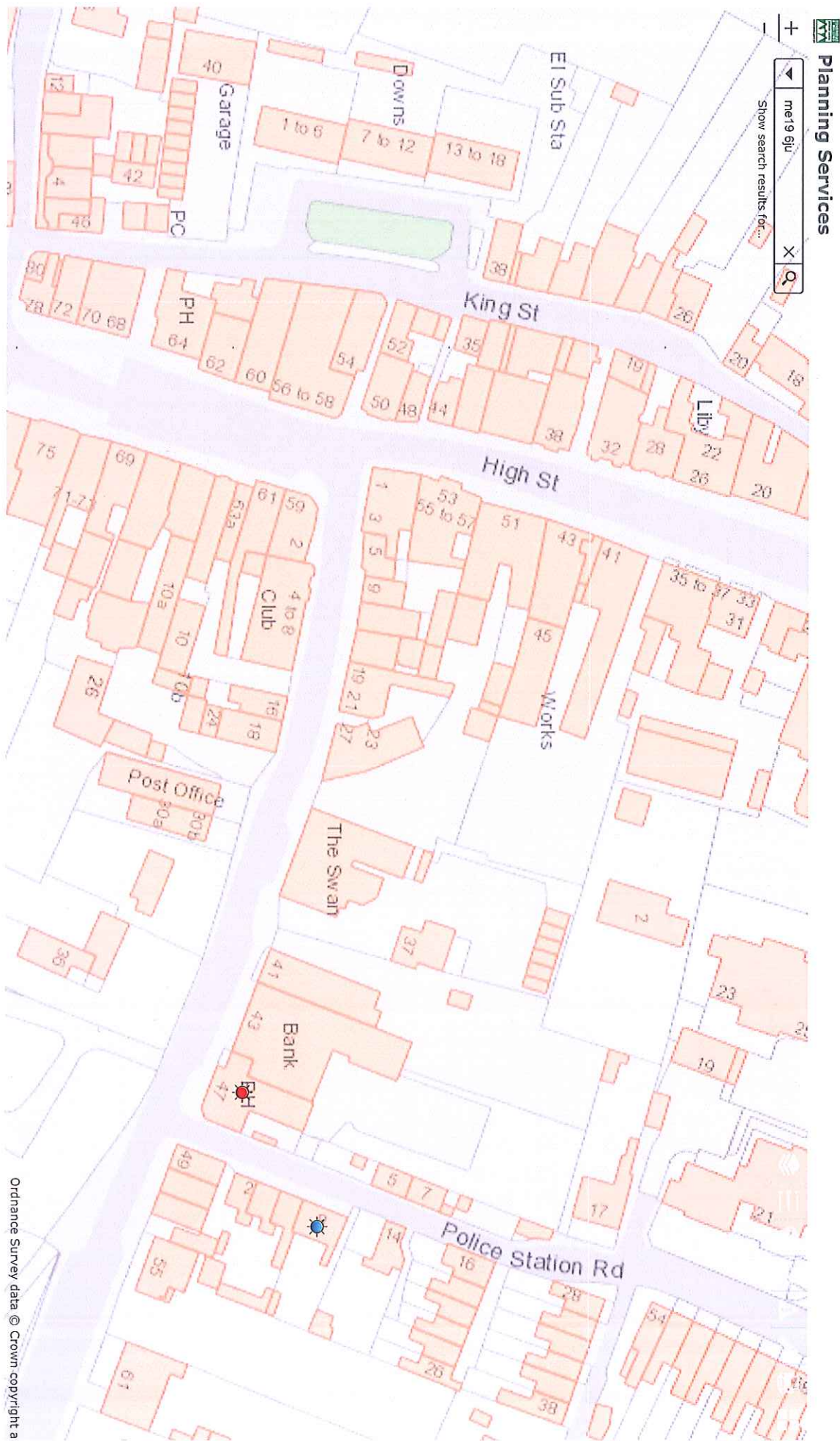
1.11.1 That members determine the application carefully, considering the application along with any representations made and take such steps as the Panel consider appropriate for the promotion of the Licensing Objectives.

Background papers:

Licensing Act 2003
Licensing Act Guidance
Statement of Licensing Policy

contact: Katie Rigg
Ext 6027

Adrian Stanfield
Director of Central Services and Monitoring Officer



558,060,169 157,901,613 Meters

Ordnance Survey data © Crown copyright a

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Planning Services



20m
60ft

558,016,182 157,855,193 Meters

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Tonbridge and Malling
Application for a premises licence
Licensing Act 2003

For help contact
licensing.services@tmbc.gov.uk
 Telephone: 01732 876368

* required information

Section 1 of 19

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference This is the unique reference for this application generated by the system.

Your reference You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

Yes No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

* Family name

* E-mail

Main telephone number

Include country code.

Other telephone number

Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

Applying as a business or organisation, including as a sole trader
 Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

Is the applicant's business registered in the UK with Companies House? Yes No

Note: completing the Applicant Business section is optional in this form.

Registration number

Business name

If the applicant's business is registered, use its registered name.

VAT number

Put "none" if the applicant is not registered for VAT.

Legal status

Continued from previous page...

Applicant's position in the business

Home country

The country where the applicant's headquarters are.

Registered Address

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Agent Details

* First name

* Family name

* E-mail

Main telephone number

Include country code.

Other telephone number

Indicate here if you would prefer not to be contacted by telephone

Are you:

- An agent that is a business or organisation, including a sole trader
 A private individual acting as an agent

A sole trader is a business owned by one person without any special legal structure.

Agent Business

Is your business registered in the UK with Companies House? Yes No

Note: completing the Applicant Business section is optional in this form.

Is your business registered outside the UK? Yes No

Business name

If your business is registered, use its registered name.

VAT number

Put "none" if you are not registered for VAT.

Legal status

*Continued from previous page...*Your position in the business Home country

The country where the headquarters of your business is located.

Agent Business Address

If you have one, this should be your official address - that is an address required of you by law for receiving communications.

Building number or name Street District City or town County or administrative area Postcode Country **Section 2 of 19****PREMISES DETAILS**

I/we, as named in section 1, apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in section 2 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003.

Premises Address

Are you able to provide a postal address, OS map reference or description of the premises?

 Address OS map reference Description
Postal Address Of PremisesBuilding number or name Street District City or town County or administrative area Postcode Country **Further Details**Telephone number Non-domestic rateable value of premises (£)

Section 3 of 19**APPLICATION DETAILS**

In what capacity are you applying for the premises licence?

- An individual or individuals
- A limited company
- A partnership
- An unincorporated association
- A recognised club
- A charity
- The proprietor of an educational establishment
- A health service body
- A person who is registered under part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales
- A person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England
- The chief officer of police of a police force in England and Wales
- Other (for example a statutory corporation)

Confirm The Following

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities
- I am making the application pursuant to a statutory function
- I am making the application pursuant to a function discharged by virtue of Her Majesty's prerogative

Section 4 of 19**NON INDIVIDUAL APPLICANTS**

Provide name and registered address of applicant in full. Where appropriate give any registered number. In the case of a partnership or other joint venture (other than a body corporate), give the name and address of each party concerned.

Non Individual Applicant's Name

Name

Details

Registered number (where applicable)

Description of applicant (for example partnership, company, unincorporated association etc)

Continued from previous page...

Limited Company

AddressBuilding number or name Street District City or town County or administrative area Postcode Country **Contact Details**E-mail Telephone number Other telephone number **Section 5 of 19****OPERATING SCHEDULE**

When do you want the premises licence to start? / /
dd mm yyyy

If you wish the licence to be valid only for a limited period, when do you want it to end / /
dd mm yyyy

Provide a general description of the premises

For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.

Hotel with quality cafe bar and restaurant

If 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend

Continued from previous page...

Section 6 of 19

PROVISION OF PLAYS

Will you be providing plays?

Yes No

Section 7 of 19

PROVISION OF FILMS

Will you be providing films?

Yes No

Section 8 of 19

PROVISION OF INDOOR SPORTING EVENTS

Will you be providing indoor sporting events?

Yes No

Section 9 of 19

PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

Will you be providing boxing or wrestling entertainments?

Yes No

Section 10 of 19

PROVISION OF LIVE MUSIC

Will you be providing live music?

Yes No

Section 11 of 19

PROVISION OF RECORDED MUSIC

Will you be providing recorded music?

Yes No

Section 12 of 19

PROVISION OF PERFORMANCES OF DANCE

Will you be providing performances of dance?

Yes No

Section 13 of 19

PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE

Will you be providing anything similar to live music, recorded music or performances of dance?

Yes No

Section 14 of 19

LATE NIGHT REFRESHMENT

Will you be providing late night refreshment?

Continued from previous page...

 Yes No**Standard Days And Timings**

MONDAY

Start End Start End

Give timings in 24 hour clock.
(e.g., 16:00) and only give details for the days
of the week when you intend the premises
to be used for the activity.

TUESDAY

Start End Start End

WEDNESDAY

Start End Start End

THURSDAY

Start End Start End

FRIDAY

Start End Start End

SATURDAY

Start End Start End

SUNDAY

Start End Start End

Will the provision of late night refreshment take place indoors or outdoors or both?

 Indoors Outdoors Both

Where taking place in a building or other structure tick as appropriate. Indoors may include a tent.

State type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

To permit the provision of hot food and hot beverages. It is noted that residents and guests are exempt this provision

State any seasonal variations

Continued from previous page...

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non-standard timings. Where the premises will be used for the supply of late night refreshments at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

New Year's Eve - 23.00 - 05.00

Section 15 of 19

SUPPLY OF ALCOHOL

Will you be selling or supplying alcohol?

Yes

No

Standard Days And Timings

MONDAY

Start

End

Start

End

Give timings in 24 hour clock.
(e.g., 16:00) and only give details for the days
of the week when you intend the premises
to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

Continued from previous page...

SUNDAY

Start 10:00

End 23:00

Start

End

Will the sale of alcohol be for consumption:

- On the premises Off the premises Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Alcohol will be sold or supplied to residents and their guests daily between 00.00 and 24.00 - mini bars will be located in the bedrooms.

On New Year's Eve to permit the sale of alcohol to members of the public from close of permitted hours on New Year's Eve to start of Permitted Hours on new Year's Day

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

Name

First name David

Family name Benavent

Enter the contact's address

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

*Continued from previous page...*Personal Licence number
(if known)

GM/PER/14/0039

Issuing licensing authority
(if known)

Gravesham Borough Council

PROPOSED DESIGNATED PREMISES SUPERVISOR CONSENT

How will the consent form of the proposed designated premises supervisor be supplied to the authority?

- Electronically, by the proposed designated premises supervisor
- As an attachment to this application

Reference number for consent form (if known)

If the consent form is already submitted, ask the proposed designated premises supervisor for its 'system reference' or 'your reference'.

Section 16 of 19**ADULT ENTERTAINMENT**

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children

Give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

None

Section 17 of 19**HOURS PREMISES ARE OPEN TO THE PUBLIC****Standard Days And Timings**

MONDAY

Start 09:00

End 00:30

Start End

TUESDAY

Start 09:00

End 00:30

Start End

WEDNESDAY

Start 09:00

End 00:30

Start End Give timings in 24 hour clock.
(e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

Continued from previous page...

THURSDAY

Start End
 Start End

FRIDAY

Start End
 Start End

SATURDAY

Start End
 Start End

SUNDAY

Start End
 Start End

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

For Members of the Public from the end of Permitted hours on New Year

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

For members of the public on New Year's Eve from the end of permitted hours to the start of permitted hours on New Year's Day.

The premises will be open to residents and their guests from 00.00 - 24.00 daily

Section 18 of 19

LICENSING OBJECTIVES

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

The premises will operate as a Hotel with high quality restaurant and cafe bar area

b) The prevention of crime and disorder

CCTV will be installed.

Continued from previous page...

Food will be available throughout the trading period for members of the public

c) Public safety

Existing legislation applies that it is not necessary to duplicate in this application

d) The prevention of public nuisance

The nature of the premises requires that the premises licence holder runs the premises in such a way as to avoid any disturbance for its residents and guests.
Because of the location of the premises, the nature of the operation and its general hours of operation no conditions are necessary to meet this objective.

e) The protection of children from harm

Challenge 25 applies. No unusual risks of harm to children have been identified

Section 19 of 19

PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Rateable value of £0 - £4300 Band A: £100

Rateable value of £4301 - £33000 Band B: £190

Rateable value of £33001 - £87000 Band C: £315

Rateable value of £87001 - £125000 Band D: £450

Rateable value of £125000 and above Band E: £635

* Fee amount (£)

190.00

DECLARATION

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name

Stephen Thomas

* Capacity

Solicitor for the applicant

* Date

02 / 03 / 2017
dd mm yyyy

Add another signatory

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Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/tonbridge-and-malling/apply-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

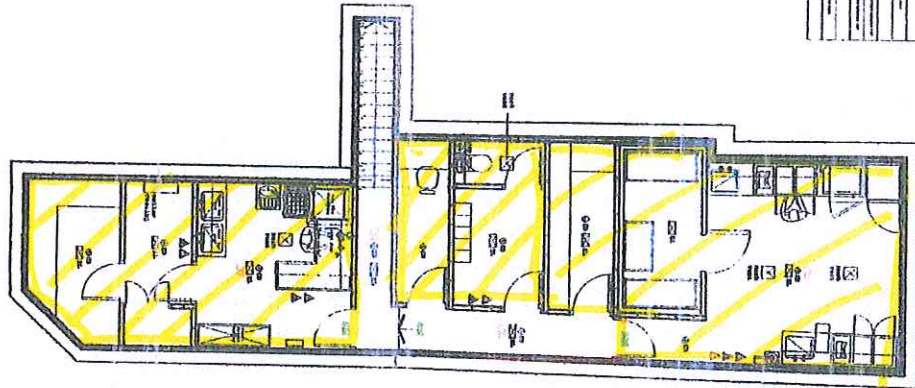
IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

OFFICE USE ONLY

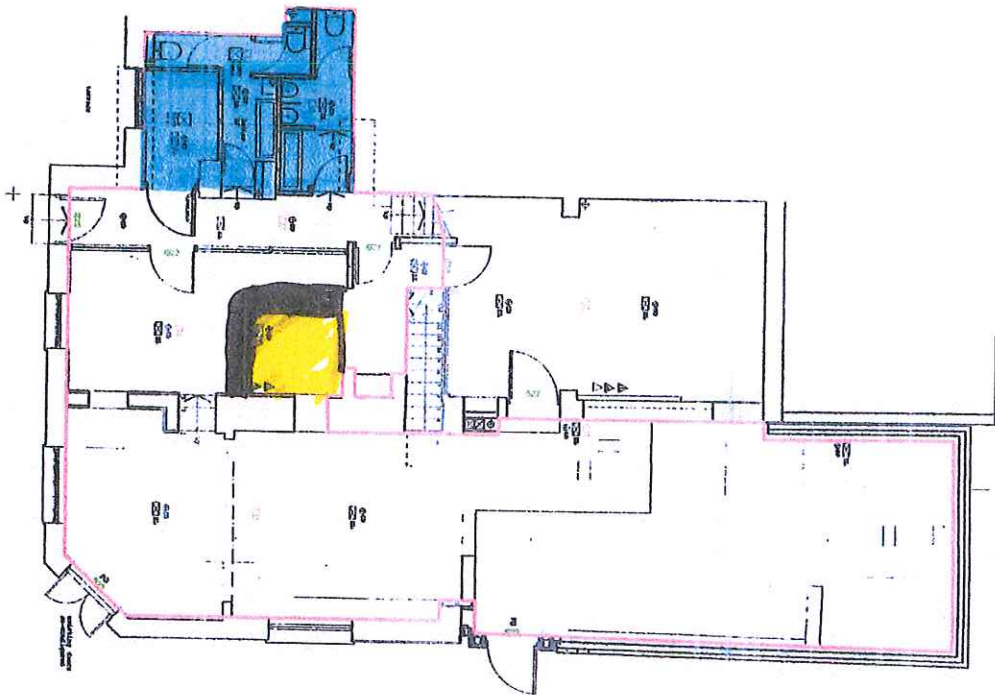
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Fee paid	<input type="text"/>
Payment provider reference	<input type="text"/>
ELMS Payment Reference	<input type="text"/>
Payment status	<input type="text"/>
Payment authorisation code	<input type="text"/>
Payment authorisation date	<input type="text"/>
Date and time submitted	<input type="text"/>
Approval deadline	<input type="text"/>
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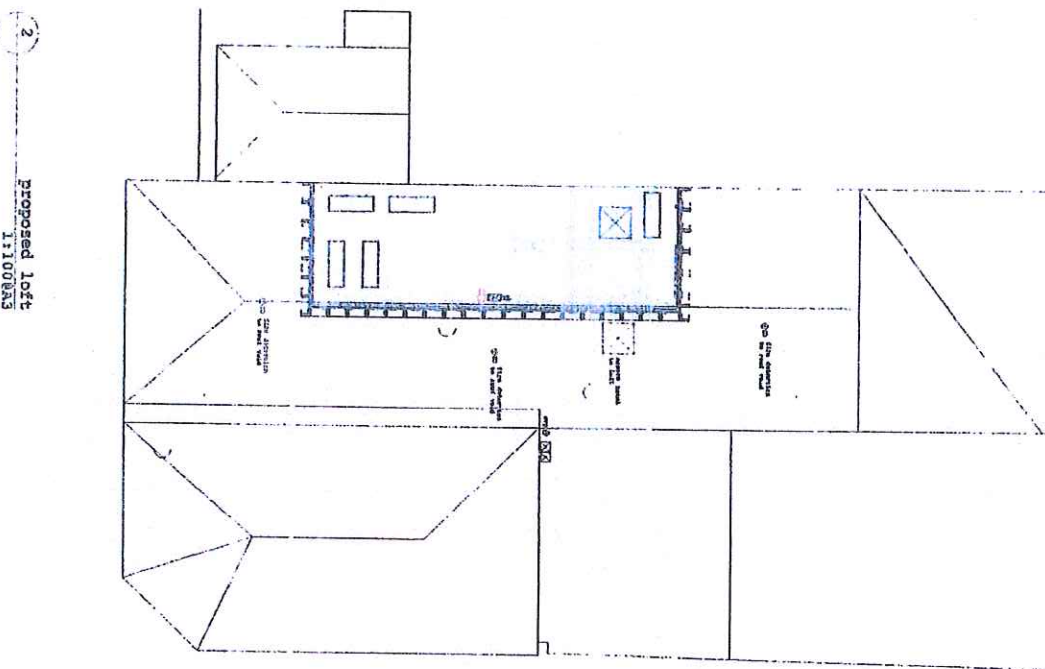
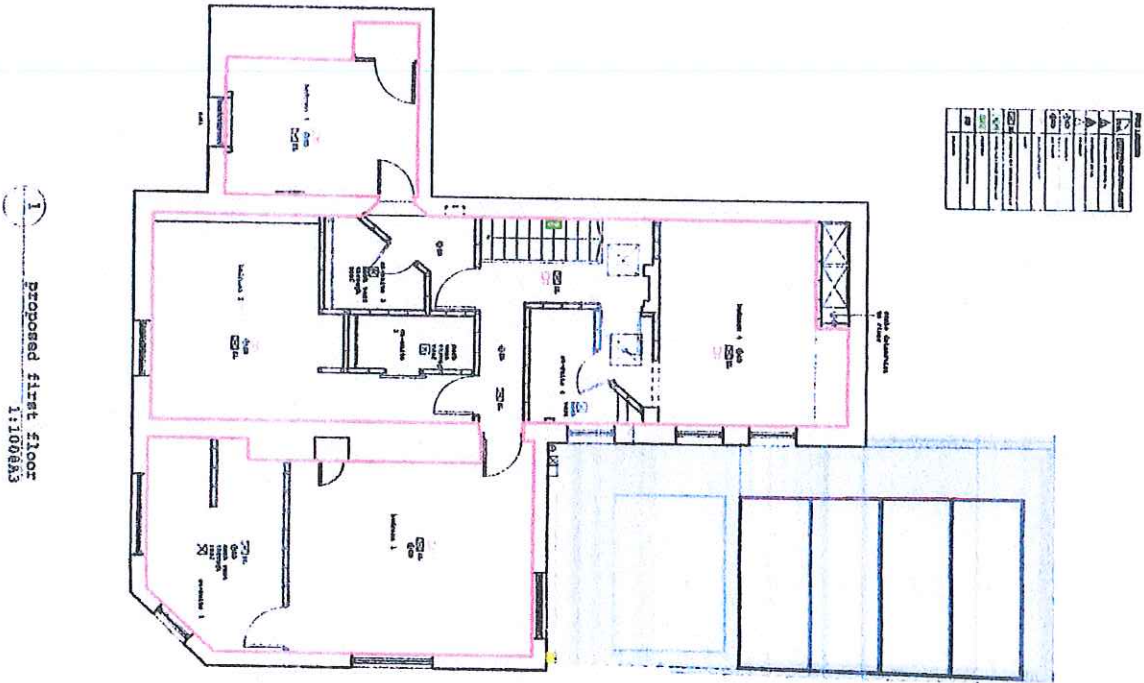
Legend	
[Symbol]	Proposed
[Symbol]	Existing
[Symbol]	Structural
[Symbol]	Services
[Symbol]	Other



1 Proposed basement
1:100BA3



2 proposed ground floor
1:100BA3



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Katie Rigg

From: Richard Byatt [REDACTED]
Sent: 28 March 2017 16:22
To: Licensing Services
Subject: Re: Application for Amano, 47 Swan Street, West Malling - Objection

Categories: Katie

Ms Rigg,

Thank you for your response which I must say disappoints me. You are taking a very narrow view of the Licensing function which I assume is there to ensure licensed premises are operated in a way that does not impact adversely on the community. I believe it is the Council's responsibility to consult and to record all views received, whether or not they consider them outside the scope of Licensing.

In order, I hope, to ensure my views are at least recorded by TMBC if not "accepted" I will reframe my main point.

"On the grounds of Prevention of Public Nuisance I believe both the hours of opening and for the sale of alcohol applied for are unreasonable and will give rise to public nuisance through excessive noise."

Please confirm that my views will now be recorded against this premises application. Thank you.

Kind regards,

Richard

Richard Byatt
[REDACTED]
[REDACTED]

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Agenda Item 5

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT
INFORMATION**

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