

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Friday, 12 May 2017 at 10.04 am.

Present:

Sub-Committee:

Chairman: Councillor B Gardner

Councillors: P S Le Chevalier (as substitute for Councillor S M Le Chevalier)  
D P Murphy

Officers:

Legal Adviser: Contentious and Regulatory Lawyer

Licensing Officer: Licensing Team Leader

Administrator: Democratic Support Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2017/00002A, NOD/2017/00003A and NOD/2017/00004A).

25 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor S M Le Chevalier.

26 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor P S Le Chevalier was appointed as substitute for Councillor S M Le Chevalier.

27 DECLARATIONS OF INTEREST

Councillor P S Le Chevalier declared a Voluntary Announcement of Other Interests (VAOI) in Minute No 28 by reason that he was a customer of Namaste, dining there 2 or 3 times a year.

28 LICENSING ACT 2003 - APPLICATION FOR THE GRANT OF A PREMISES LICENCE AT NAMASTE, THE QUAY, SANDWICH

The sub-committee considered an application from Mr S Patel in respect of Namaste, The Quay, Sandwich CT13 9EN. The application was for the grant of a premises licence for:

Supply of Alcohol (for consumption ON and OFF the premises)

Monday – Thursday	10:00 – 23:00 hrs
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Friday – Sunday	10:00 – 01:30 hrs
Non-standard timings as follows:	
New Year’s Eve Diwali Festival Christmas Eve Bank Holidays St George’s Day St Patrick’s Day	10:00 – 01:30 hrs

#### Late Night Refreshment

Monday – Thursday	23:00 – 00:00 hrs
Friday – Sunday	23:00 – 01:30 hrs

#### Live and Recorded Music, Performance of Dance and Provision of facilities for Dancing

Friday – Sunday	23:00 – 00:00 hrs
Non-standard timings as follows:	
New Year’s Eve Diwali Festival Christmas Eve Bank Holidays St George’s Day St Patrick’s Day	10:00 – 01:30 hrs

#### Films

Friday – Sunday	23:00 – 00:00 hrs
Non-standard timings as follows:	
New Year’s Eve Diwali Festival Christmas Eve Bank Holidays St George’s Day St Patrick’s Day	23:00 – 01:00 hrs

Having taken into account the objections to the application the applicant made an amendment to the application at the Hearing and removed the request for activities save the supply of alcohol.

The applicant sought for the grant of a premises licence for:

Supply of Alcohol (for consumption ON and OFF the premises)

Monday – Thursday	10:00 – 23:00 hrs
Friday – Sunday	10:00 – 00:00 hrs
Non-standard timings as follows:	
New Year’s Eve Diwali Festival Christmas Eve Bank Holidays St George’s Day St Patrick’s Day	10:00 – 01:30 hrs

On the basis of the representations of the applicant and other persons, the sub-committee found the following facts to be established:

- (i) There had been no representations made by any of the Responsible Authorities including the police.
- (ii) That having received the representations from the Other Parties the applicant met with local residents and amended the original application. As a result of the amendment, Mr R Coleman and Mr R Barry withdrew their representations.
- (iii) That at the Hearing, the applicant chose to amend the application again to remove the request for all activities save the supply of alcohol for consumption on and off the premises.
- (iv) That having made the amendment the sub-committee adjourned the Hearing to allow for the Other Persons in attendance to discuss and consider if they still wished to make representations against the grant of the licence.
- (v) That upon reconvening having discussed and considered the representations of his ward, Councillor Holloway withdrew the objections to the amended application on behalf of those he was representing and the Other Persons in attendance.
- (vi) The remaining representations, which had not been withdrawn, were considered by the sub-committee.
- (vii) The sub-committee disregarded representations made outside of the hearing and application process.

In reaching its findings the sub-committee took into account the following:

- (i) Dover District Council’s Licensing Policy.
- (ii) The Licensing Act 2003 and the guidance given under Section 182 of the Act.
- (iii) Section 17 of the Crime and Disorder Act 1998.
- (iv) The judgment in the case of Daniel Thwaites PLC V Wirral Borough Magistrates Court [2008] EWHC 38 (Admin).

RESOLVED: (a) That the application for a premises licence in respect of Namaste, The Quay, Sandwich CT13 9EN be GRANTED as follows:

Supply of Alcohol (for consumption ON and OFF the premises)

Monday – Thursday	10:00 – 23:00 hrs
Friday – Sunday	10:00 – 00:00 hrs
Non-standard timings as follows:	
New Year’s Eve Diwali Festival Christmas Eve Bank Holidays St George’s Day St Patrick’s Day	10:00 – 01:30 hrs

(i) Conditions as per the operating schedule would be applied to the licence.

29 LICENSING ACT 2003 - APPLICATION FOR THE GRANT OF A PREMISES LICENCE AT THE SALUTATION, KNIGHTRIDER STREET, SANDWICH

The sub-committee considered an application from The Salutation Hotel Ltd in respect of The Salutation, Knightrider Street, Sandwich CT13 9EW. The application was for the grant of a premises licence for:

Supply of Alcohol (for consumption ON the premises)

Every Day	10:00hrs – 00:00hrs
Seasonal Variations New Year’s Eve	10:00hrs – 01:00hrs
Non-standard timings Residents of the hotel and their bona fide guests	24 hours a day

Plays

Every Day	23:00hrs – 00:00hrs
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Films

Every Day	10:00hrs – 00:00hrs
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Performance of Dance

Every Day	23:00hrs – 00:00hrs
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Late Night Refreshment

Every Day	23:00hrs – 00:00hrs
Seasonal Variations New Year's Eve	23:00hrs – 01:00hrs

On the basis of the representations of the applicant, the responsible authority and other persons, the sub-committee found the following facts to be established:

- (i) That following mediation with those who had made representations to the original application, the applicant amended the application to withdraw the request for Live and Recorded Music between 23:00hrs – 00:00hrs.
- (ii) That following the amendment to the application, R Smart, J Yapp, A Laughlin and Dover District Council (DDC) Environmental Health withdrew their representations. The two representations that remained were considered.
- (iii) That Mr J Fothergill had taken over the running of the premises in December 2016 following a Change of Use application being granted to change the use of the premises from Bed and Breakfast to a Luxury Boutique Hotel including a fine dining restaurant.
- (iv) That the applicant did not intend to increase the number of weddings and external events at the premises. The licence allowed up to 12 weddings per year although Mr Fothergill was not intending to have more than 3.
- (v) That the complaints made to DDC's Environmental Health relating to music events at The Salutation were received prior to Mr Fothergill taking over the running of the premises.

In reaching its findings the sub-committee took into account the following:

- (i) Dover District Council's Licensing Policy.
- (ii) The Licensing Act 2003 and the guidance given under Section 182 of the Act.
- (iii) Section 17 of the Crime and Disorder Act 1998.
- (iv) The judgment in the case of Daniel Thwaites PLC V Wirral Borough Magistrates Court [2008] EWHC 38 (Admin).

RESOLVED: (a) That the application for a premises licence in respect of The Salutation, Knightrider Street, Sandwich CT13 9EW be GRANTED as follows:

Supply of Alcohol (for consumption ON the premises)

Every Day	10:00hrs – 00:00hrs
Seasonal Variations New Year's Eve	10:00hrs – 01:00hrs
Non-standard timings Residents of the hotel and their bona fide	24 hours a day

Plays

Every Day	23:00hrs – 00:00hrs
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Films

Every Day	10:00hrs – 00:00hrs
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Performance of Dance

Every Day	23:00hrs – 00:00hrs
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Late Night Refreshment

Every Day	23:00hrs – 00:00hrs
Seasonal Variations New Year's Eve	23:00hrs – 01:00hrs

- (i) Conditions as per the operating schedule would be applied to the licence.

30 LICENSING ACT 2003 - APPLICATION FOR THE GRANT OF A PREMISES LICENCE AT THE BOOKING HALL, OLD HARBOUR STATION, ELIZABETH STREET, DOVER

The sub-committee considered an application from The Booking Hall, Old Harbour Station, Elizabeth Street, Dover CT17 9FE. The application was for the grant of a premises licence for:

Supply of Alcohol (for consumption ON the premises)

Every day	12:00hrs - 23:00hrs
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Plays

Every Day	12:00hrs – 23:00hrs
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Films

Every Day	12:00hrs - 00:00hrs
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Recorded Music

Every Day	12:00hrs – 00:00hrs
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Performance of Dance

Every Day	12:00hrs – 00:00hrs
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On the basis of the representations of the applicant and his representative, the responsible authority and its witness the sub-committee found the following facts to be established:

- (i) That Kent Police was objecting to the application on the grounds of Public Safety.
- (ii) On 18 April 2017 PC Noddings – Kent Police had been made aware of a letter to Paul Bannon (Senior Building Control Surveyor, Dover District Council) from Mark Moore, Fire Safety Manager, Kent Fire and Rescue Service (KFRS). The letter concluded that following a visit made to the premises in late 2016 by the local TFS group the capacity of The Booking Hall was limited to 60 persons due to the lack of means of escape from the premises via routes which were owned by the applicant.
- (iii) That KFRS had not objected to the application as the Responsible Authority and was called upon as a witness for Kent Police.
- (iv) That Kent Police stated that if the premises were to operate to full capacity of 360 persons, KFRS could issue a prohibition on the premises and evacuate the building. This would cause concern for Kent Police as a Public Order situation could occur.
- (v) That Kent Police asked that conditions be placed on the licence to restrict the premises to 60 persons including customers, staff and SIA staff at all times.
- (vi) That Fire Inspectors from KFRS had inspected the premises on two occasions and provided considerable advice to the applicant.
- (vii) That the applicant had sought advice from EK Fire Protection throughout the refurbishment of the premises. EK Fire Protection was unavailable to be in attendance at the meeting. An evacuation policy was being written and would include a large car park as a muster point.
- (viii) That the applicant advised he had use of the central part of the building (shown as “hall” on the plan). On either side of the hall were separate businesses not under the control of the applicant, each with its own lease.
- (ix) The hall itself had two fire exits, one opened outwardly and the other inwardly. KFRS stated that when considering fire safety, the best exit (the outward door) had to be assessed as being the seat of fire, and thus the other exit was the only one available and was only suitable to safely evacuate 60 persons.
- (x) The applicant (as per the plan provided) proposed two additional means of escape, one via the “entrance hall” the other through the “gym”.
- (xi) That the applicant advised the hall was 18m x 10m and contained 4 heat detectors. There were no smoke alarms within that part of the building due to the need for smoke machines during performances.
- (xii) That KFRS advised that heat detectors only activated in the event of a well-established fire and there would be a need for smoke detectors.
- (xiii) That there was emergency lighting throughout the whole building.

- (xiv) That the applicant advised that to the rear of the building was a railway line. Any evacuation would be to a safe area to the front of the building.
- (xv) That the evacuation exit through the “gym” eventually exited to the side of the building. It was under the 25 metres considered as a safe route and the corridor was 1.5 metres wide. The gym, the applicant stated, had no equipment left out and was only used during the day.
- (xvi) That the evacuation exit through the “main entrance” (as entitled on the plan) led out onto a gated pavement area. The corridor from the hall to the “entrance hall” was 2 metres wide.
- (xvii) KFRS confirmed that they had seen the new plans but still considered the venue only suitable for 60 persons. They also stated that the demographic of persons using the venue were that some would likely be under the influence of alcohol, which would also impact on safe evacuation.
- (xviii) That KFRS were concerned that the applicant would not have control of the other parts of the building and could not ensure all fire exit points would remain clear at all times. Only two exits would remain the sole control of the applicant.
- (xix) That the applicant advised that the leases for the other parts of the building were being re-written to include each leaseholder’s legal responsibility to keep all exits clear. The applicant stated this would allow for four exits from the hall and for 360 people to safely evacuate the building. The applicant stated that he would have right of inspection of the other parts of the building to ensure routes were clear.
- (xx) Police stated they did not accept there were leases with other parts of the building and KFRS stated they had had experience of such leases, which had shown not to operate as intended.
- (xxi) The applicant stated that in the event of fire as soon as guests leave the hall they would go to areas of temporary safety behind fire rated doors until they proceed to the external exit.
- (xxii) That the applicant was unable to amend the application to limit the capacity to 60 persons only (including staff) as this would not be commercially viable.

In reaching its findings the sub-committee took into account the following:

- (i) Dover District Council’s Licensing Policy.
- (ii) The Licensing Act 2003 and the guidance given under Section 182 of the Act.
- (iii) Section 17 of the Crime and Disorder act 1998 (Duty to consider crime and disorder implications).
- (iv) The judgment in the case of Daniel Thwaites PLC V Wirral Borough Magistrates Court [2003] EWHC (admin) in which it was held that



speculative representations should be disregarded unless supported by previous facts as evidence.

- RESOLVED: (a) That the application for a premises licence in respect of The Booking Hall, Old Harbour Station, Elizabeth Street, Dover CT17 9FE be REFUSED on the grounds of public safety for the following reasons:
- (i) That having heard evidence from Kent Police and their witness, Kent Fire and Rescue Service, the venue is unsuitable for the number of persons intended to use it. If used by the proposed 360 persons it would give rise to public safety concerns including risk to life if the premises were to be evacuated, both in terms of exits and crowd control external to the building.
  - (ii) That Committee have considered the applicant's evidence regarding leases and extra exits however the evidence of the Kent Fire and Rescue Service is that in their experience these do not always operate as intended and such failure would increase the risk to public safety.
  - (iii) The Police and Kent Fire and Rescue Service stated that a maximum limit of 60 persons (including staff) would be acceptable. The applicant advised that this was not commercially viable when asked by the sub-committee.
  - (iv) The Committee accepts the evidence from Kent Fire and Rescue Service regarding public safety at the venue. The applicant made reference to his own fire assessment but no reports had been provided for all parties to consider and where exits/entrances open directly onto the front of the building there is a restricted area before accessing safely to the car park for the number of persons proposed.

The meeting ended at 1.05 pm.