

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Thursday, 31 August 2017 at 10.05 am.

Present:

Sub-Committee:

Chairman: Councillor P M Brivio

Councillors: D Hannent (as substitute for Councillor N A G Richards)
M J Holloway

Officers:

Legal Adviser: Contentious and Regulatory Lawyer
Licensing Team Leader

Licensing Officer: Public Protection Manager
Technical Support Officer - Licensing

Administrator: Democratic Services Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2017/0006V).

5 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor N A G Richards.

6 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor D Hannent was appointed as substitute for Councillor N A G Richards.

7 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

8 LICENSING ACT 2003 - APPLICATION TO VARY A PREMISES LICENCE AT DER BAR, 152 HIGH STREET, DEAL CT14 6BG

The sub-committee considered an application from Mr J Hill -Turner in respect of Der Bar, 152 High Street, Deal CT14 6BG. The application was for the variation of a premises licence for:

Supply of Alcohol (for consumption ON the premises)

| | |
|--|-------------------|
| Every Day | 11:00 – 23:30 hrs |
| Seasonal Variations Christmas Eve Boxing Day New Year's Eve Bank Holidays – Sunday/Monday | 11:00 – 00:30 hrs |

Live Music

| | |
|--|-------------------|
| Monday - Friday | 18:00 – 23:30 hrs |
| Saturday – Sunday | 12:00 – 23:30 hrs |
| Seasonal Variations Christmas Eve Boxing Day New Year's Eve Bank Holidays – Sunday/Monday | 11:00 – 00:30 hrs |

Recorded Music

| | |
|--|-------------------|
| Every Day | 11:00 – 23:30 hrs |
| Seasonal Variations Christmas Eve Boxing Day New Year's Eve Bank Holidays – Sunday/Monday | 11:00 – 00:30 hrs |

Prior to the Hearing and having taken into account the objections to the application, the applicant amended the application as followed:

Supply of Alcohol (for consumption ON the premises)

| | |
|--|-------------------|
| Sunday – Thursday | 10:00 – 22:00 hrs |
| Friday – Saturday | 10:00 – 23:00 hrs |
| Seasonal Variation – Bank Holiday Sundays | 10:00 – 23:00 hrs |

Recorded Music

| | |
|-------------------|-------------------|
| Sunday – Thursday | 10:00 – 22:00 hrs |
| Friday – Saturday | 10:00 – 23:00 hrs |

Live Music

| | |
|-------------------|-------------------|
| Sunday – Thursday | 11:00 – 21:30 hrs |
| Friday – Saturday | 10:00 – 23:00 hrs |

All parties were given the opportunity to withdraw their objection based on the amendments. Following consultation Mr David Warden withdrew his objection. The applicant amended the application further at the Hearing by removing the seasonal variation request for the sale of alcohol.

On the basis on the representations of the applicant, his representative 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 considered the 19 representations objecting to the application the applicant amended the application and reduced the hours for the sale of alcohol. Following this amendment one objection was withdrawn.
- (iii) That at the Hearing the applicant chose to further amend the application and remove the request for the seasonal variation for the sale of alcohol. In addition the request for live and recorded music was removed as this was already permitted within the Licensing Act 2012.
- (iv) The licence was granted in 2015 but that the premises did not begin trading until 2016.
- (v) Objectors were concerned with and gave first-hand experience of the level of noise emanating from the premises and patrons in the street that were congregating whilst smoking and drinking.
- (vi) The sub-committee considered there to be two aspects of noise. The first from music which under the deregulation was outside the scope of this determination. The other was noise from patrons. The sub-committee were of the view that extending the hours as per the application would not undermine the licensing objective of public nuisance.
- (vii) It was alleged that the applicant had not adhered to the conditions placed on the existing licence and in particular relating to the closing of windows and doors at the premises. In response, the Licensing Team Leader advised that the conditions attached promoting the Prevention of Public Nuisance and those referred to by the objectors were as followed and applied to regulated entertainment at the premises

‘During regulated entertainment events, in the form of live/recorded/karaoke music, all the doors and windows of the premises shall remain closed except for ingress and egress.’

However under the deregulation, no condition can be placed on the licence during the hours of 08:00 – 23:00 hrs in regard to live and recorded music, if alcohol is being sold.

In addition the following condition was also attached to the existing licence

‘Suitable signage to be displayed at the exit asking customers to leave quietly for the consideration of local residents.’

- (viii) The applicant advised that there had been no live music at the premises and any recorded music was turned off if the doors were opened.
- (ix) There was some confusion regarding non-adherence to conditions, in that there were planning conditions placed on the premises which were over and above any conditions required on the premises licence.
- (x) There had been no noise complaints reported to the Licensing Team or Environmental Health regarding the premises. In addition no review of the licence had been requested for the alleged breach of conditions.
- (xi) The remaining representations that had not been withdrawn were considered by the sub-committee.

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 the variation of a premises licence in respect of Der Bar, 152 High Street, Deal CT14 6BG be GRANTED as follows:

Sale of Alcohol (for consumption ON the premises)

| | |
|-------------------|-------------------|
| Sunday – Thursday | 10:00 – 22:00 hrs |
| Friday – Saturday | 10:00 – 23:00 hrs |

- (i) Throughout Sunday to Thursday the premise is to close and all patrons to have left the premise by 22:20 hrs.
- (ii) Throughout Friday to Saturday the premise is to close and all patrons to have left the premise by 23:20 hrs.

At the conclusion of the hearing the sub-committee reminded the applicant that he needed to adhere to all conditions on the licence.

The meeting ended at 12.05 pm.