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21 February 2017

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **LICENSING COMMITTEE** will be held in the Council Chamber at these Offices on Wednesday 1 March 2017 at 5.00 pm when the following business will be transacted.

Members of the public who require further information are asked to contact Jemma Duffield on (01304) 872305 or by e-mail at jemma.duffield@dover.gov.uk.

Yours sincerely

A handwritten signature in black ink, appearing to read "Jemma Duffield", written over a white background.

Chief Executive

Licensing Committee Membership:

| | |
|-----------------------------|------------------|
| P S Le Chevalier (Chairman) | M J Holloway |
| B Gardner (Vice-Chairman) | L A Keen |
| S F Bannister | S M Le Chevalier |
| P M Brivio | D P Murphy |
| B W Butcher | M J Ovenden |
| D G Cronk | M Rose |
| B J Glayzer | D A Sargent |
| D Hannent | |

AGENDA

1 **APOLOGIES**

To receive any apologies for absence.

2 **DECLARATIONS OF INTEREST** (Page 3)

To receive any declarations of interest from Members in respect of business to be transacted on the agenda.

3 **MINUTES** (Pages 4 - 5)

To confirm the attached Minutes of the meeting of the Committee held on 30 November 2016.

4 **MINUTES OF SUB-COMMITTEE MEETINGS** (Pages 6 - 15)

To receive the attached Minutes of the Licensing Sub-Committee meetings held on 8 December 2016, 20 December 2016 and 3 January 2017.

Access to Meetings and Information

- Members of the public are welcome to attend meetings of the Council, its Committees and Sub-Committees. You may remain present throughout them except during the consideration of exempt or confidential information.
- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is disabled access via the Council Chamber entrance and a disabled toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.
- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website www.dover.gov.uk. Minutes will be published on our website as soon as practicably possible after each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting.
- If you require any further information about the contents of this agenda or your right to gain access to information held by the Council please contact Jemma Duffield, Democratic Support Officer, telephone: (01304) 872305 or email: jemma.duffield@dover.gov.uk for details.

Large print copies of this agenda can be supplied on request.

Declarations of Interest

Disclosable Pecuniary Interest (DPI)

Where a Member has a new or registered DPI in a matter under consideration they must disclose that they have an interest and, unless the Monitoring Officer has agreed in advance that the DPI is a 'Sensitive Interest', explain the nature of that interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a DPI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation permitting them to do so. If during the consideration of any item a Member becomes aware that they have a DPI in the matter they should declare the interest immediately and, subject to any dispensations, withdraw from the meeting.

Other Significant Interest (OSI)

Where a Member is declaring an OSI they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation to do so or the meeting is one at which members of the public are permitted to speak for the purpose of making representations, answering questions or giving evidence relating to the matter. In the latter case, the Member may only participate on the same basis as a member of the public and cannot participate in any discussion of, or vote taken on, the matter and must withdraw from the meeting in accordance with the Council's procedure rules.

Voluntary Announcement of Other Interests (VAOI)

Where a Member does not have either a DPI or OSI but is of the opinion that for transparency reasons alone s/he should make an announcement in respect of a matter under consideration, they can make a VAOI. A Member declaring a VAOI may still remain at the meeting and vote on the matter under consideration.

Note to the Code:

Situations in which a Member may wish to make a VAOI include membership of outside bodies that have made representations on agenda items; where a Member knows a person involved, but does not have a close association with that person; or where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position. It should be emphasised that an effect on the financial position of a Member, relative, close associate, employer, etc OR an application made by a Member, relative, close associate, employer, etc would both probably constitute either an OSI or in some cases a DPI.

Minutes of the meeting of the **LICENSING COMMITTEE** held at the Council Offices, Whitfield on Wednesday, 30 November 2016 at 5.00 pm.

Present:

Chairman: Councillor P S Le Chevalier

Councillors: D G Cronk
B Gardner
B J Glayzer
D Hannent
L A Keen
S M Le Chevalier
D P Murphy
M J Ovenden
D A Sargent

Officers: Head of Regulatory Services
Public Protection Manager
Contentious and Regulatory Lawyer
Democratic Support Officer

8 APOLOGIES

There were no apologies for absence received from Members.

9 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

10 MINUTES

The Minutes of the meeting held on 25 May 2016 were approved as a correct record and signed by the Chairman.

11 MINUTES OF SUB-COMMITTEE MEETINGS

The Minutes of the meetings of the Licensing Sub-Committees held on 16 May, 3 August, 11 August and 8 September 2016 were received and noted.

12 FEES AND CHARGES 2017/18

The Committee considered the report of the Head of Regulatory Services which set out the Fees and Charges 2017/18 relevant to the Licensing Authority.

- RESOLVED:
- (a) That the Fees and Charges for 2017/18 as set out in Appendix 3 be approved.
 - (b) That Members approve the general principle that fees are set at an appropriate inclusive level, irrespective of VAT status, and that the VAT element within the overall fee level is then determined.
 - (c) That Members approve the general principle that, unless the fee is set by statute, licensing fees will be set on a cost recovery basis.
 - (d) That the Head of Regulatory Services be authorised to adopt fees at, or close to government directed levels without the need for further reporting, in cases where the Council is awaiting Government guidance and it has not been possible to set a fee level at this stage.
 - (e) That the Head of Regulatory Services be authorised in consultation with the Director of Governance and the Director of Finance, Housing and Community to make minor adjustments to the fees and charges as necessary.

The meeting ended at 5.01 pm.

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Thursday, 8 December 2016 at 10.00 am.

Present:

Sub-Committee:

Chairman: Councillor D Hannent

Councillors: B J Glayzer
D A Sargent

Officers:

Legal Adviser: Contentious and Regulatory Lawyer
Licensing Officer: Head of Regulatory Services
Administrator: Licensing Team Leader
Technical Support Officer - Licensing
Democratic Support Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2016/0006A).

13 APOLOGIES FOR ABSENCE

There were apologies for absence received from Councillors M J Holloway and M Rose.

14 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillors B J Glayzer and D A Sargent were appointed as substitutes for Councillors M J Holloway and M Rose respectively.

15 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

16 LICENSING ACT 2003 - APPLICATION FOR THE GRANT OF A PREMISES LICENCE IN RESPECT OF MARMARIS KEBAB AND PIZZA HOUSE, 1 SOUTH STREET, DEAL

The sub-committee considered an application from Mrs Dilber Kyazim Tasim in respect of Marmaris Kebab and Pizza House, 1 South Street, Deal CT14 7AW. The application was for the grant of a premises licence for:

Late Night Refreshment

| | |
|-------------------|-------------------|
| Sunday – Thursday | 23:00 – 01:00 hrs |
| Friday – Saturday | 23:00 – 02:00 hrs |

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

- (i) The premises had held a licence with Dover District Council since 2005 when the council became the Licensing Authority.
- (ii) Mr Muharrem Yildirim was the previous premises licence holder.
- (iii) The Police called for a review of the licence in December 2015 as a result of an incident which occurred on the morning of 17 October 2015 whereby a customer was assaulted by a member of staff. Mr Muharrem Yildirim was the licence holder at the time of the incident.
- (iv) The review hearing was held on 19 January and as a result of the hearing the premises licence was revoked.
- (v) Mr Muharrem Yildirim appealed the decision and the matter was heard at Folkestone Magistrates Court on 22 September 2016.
- (vi) The court agreed with the Council's decision and dismissed the appeal.
- (vii) The premises had not been permitted to operate after 23:00 hrs since 22 September 2016.
- (viii) Councillor Gardner stated that he had not received any complaints regarding the premises since 22 September 2016.
- (ix) Mr McGlashan stated that there were issues with litter, people using steps of the house to sit and eat and persons waiting around the premises up to 2am in the morning.
- (x) Dover District Council's licensing team received a new premises licence application for the same premises on 20 October 2016. The applicant named on the application was Mrs Dilber Kyazim Tasim.
- (xi) Mrs Tasim had taken over the management of the business from 22 September 2016 when the licence was revoked and had also been in attendance at the premises when it was operating under its late night licence between January and September 2016. There was ambiguity in respect of Mrs Tasim's involvement with the premises post January 2016's revocation decision and September 2016, at times it was suggested she was present and actively involved and at others that she was not responsible.
- (xii) It was confirmed that Mr Muharrem Yildirim, Mr Tuncay Yildirim and Mr Ashmore would be working at the premises.
- (xiii) On 17 November 2016 officers from Dover District Council's Public Protection Team inspected the premises and passed information obtained from that inspection to PC Stephen Noddings. Officers reported

that the signage on the door and the menu still showed the extended opening hours which Mrs Tasim accepted was the case. The officers were also told that Mr Muharrem and Tuncay Yildirim would be the operators of the premises. During the inspection it was noted that what appeared to be a thick wooden pole was removed by Mr Muharrem Yildirim from the stairwell area and placed outside.

- (xiv) There were no SIA trained doormen working at the premises. Mrs Tasim was aware of somewhere in Canterbury where she would send a member of her staff to be SIA trained if the licence were granted. The staff member would carry out both the function of doorman whilst also being available to serve customers.
- (xv) That Mrs Tasim had been working with Dover Partnership Against Crime, who would help her organise for all staff members to receive training. But there was no evidence of what that training would involve, when it would happen, nor that any training had already taken place to instil the Licensing Objectives and to ensure they were being met.
- (xvi) Mrs Tasim confirmed that in her absence, Mr Ashmore will manage the premises.

In reaching its finding 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 18 of the Licensing Act which deal with applications for premises licences and determination of such applications.
- (iv) The judgment in the case of Daniel Thwaites PLC V Wirral Borough Magistrates Court [2008] EWHC 38 (Admin) in which it was held that speculative representations should be disregarded unless supported by previous facts as evidence.

RESOLVED: That the application for a premises licence in respect of Marmaris Kebab and Pizza House, 1 South Street, Deal CT14 7AW be determined as follows:

- (a) Refuse the application for a premises licence in respect of Marmaris Kebab and Pizza House, 1 South Street, Deal on the grounds that:
 - (i) Having considered the application, representations and the evidence given at the hearing, it is accepted that Mrs Dilber Kyazim Tasim does now manage the premises. However she has not demonstrated a change to the operation of the business. The door times have not been changed since the appeal decision on 22 September 2016, no training has yet been undertaken by the staff or any details provided of exactly what the training will entail and when it will happen.

- (ii) At times the applicant's evidence has been conflicting and ambiguous. The proposal that a staff member should train and undertake doorman duties, as well as serving customers demonstrated a lack of understanding, which would be expected of a licence holder, of the purpose of an SIA doorman and the necessary division of duties. This misunderstanding also meant that staffing was not at the level suggested by the operating schedule.
- (iii) The sub-committee has concerns that Mr Muharrem Yildirim and Mr Tuncay Yildirim, whose actions led to the revocation of the previous licence for failing to promote the licensing objective of the prevention of crime and disorder, will still be employed, involved with and working at the premises during the licensable hours.
- (iv) The sub-committee are concerned that despite the revocation of the licence in January, Mrs Dilber Kyazim Tasim did not assume control of the business until 22 September 2016 and that during an inspection of the premises on 17 November 2016, a wooden pole was found on the premises. Further that the opening hours on display to the public had not been altered to reflect the revocation of the licence.
- (v) Taking into consideration the licensing objective of the prevention of public nuisance, the sub-committee is of the view that up to 22 September 2016 there were still issues with public order and littering causing a nuisance when the applicant had been present on the premises and that since the revocation of the licence in September the issue of public nuisance has diminished.

The meeting ended at 12.41 pm.

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Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Tuesday, 20 December 2016 at 3.15 pm.

Present:

Sub-Committee:

Chairman: Councillor P M Brivio

Councillors: S F Bannister
M J Holloway

Officers:

Legal Adviser: Contentious and Regulatory Lawyer
Licensing Officer: Licensing Enforcement Officer
Administrator: Technical Support Officer - Licensing
Democratic Support Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2016/007T).

17 APOLOGIES FOR ABSENCE

There were apologies for absence received from Councillor B J Glayzer and D A Sargent.

18 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillors M J Holloway and S F Bannister were appointed as substitutes for Councillors B J Glayzer and D A Sargent respectively.

19 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

20 LICENSING ACT 2003 - APPLICATION FOR A TEMPORARY EVENT NOTICE FOR AN EVENT TO BE HELD AT MARMARIS KEBAB, 1 SOUTH STREET, DEAL.

The sub-committee considered an Objection Notice given by Kent Police, citing the Licensing Objective of prevention of crime and disorder, in response to a Temporary Event Notice served on the Licensing Authority by Mrs Dilber Kyazim Tasim for events to be held at Marmaris Kebab, 1 South Street, Deal, CT14 7W, for late night refreshment on: 29 December 2016 from 23:00 hrs until 02:00 hrs the day following, 30 December 2016 from 23:00 hrs until 02:00 hrs the day following, and 31 December 2016 from 23:00 hrs until 03:00 hrs the day following.

On the basis of the representations of the applicant, her representative and the Chief Officer of Police Objection Notice, the sub-committee found the following facts to be established:

- (i) A new CCTV system had been installed in the premises which included new digital cameras with wireless connection.
- (ii) Mrs D Tasim had delivered in-house training to her staff which covered topics within the Licensing Act 2003.
- (iii) Mrs D Tasim and Mr J Ashmore had completed conflict management training.
- (iv) Staff would complete and maintain an incident book.
- (v) Posters had been ordered to be displayed in the premises requesting that customers leave the premises quietly and that a zero tolerance policy in regard to anti-social behaviour would be in operation.
- (vi) Mrs D Tasim was a member of Dover Partnership Against Crime and Pub Watch.
- (vii) An SIA trained doorman would be on the premises during the licensable hours applied for.
- (viii) Staff had been trained in how to ask customers to leave the premises and persistent troublemakers would be banned.
- (ix) Mrs D Tasim and Mr J Ashmore would be on the premises during the licensable hours applied for.

In reaching its finding, the sub-committee took into account S105 of the Licensing Act 2003, the guidance with regard to temporary event notices and the council's statement of licensing policy.

RESOLVED: That a Counter Notice would not be given.

The meeting ended at 4.03 pm.

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Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Tuesday, 3 January 2017 at 11.00 am.

Present:

Sub-Committee:

Chairman: Councillor B Gardner

Councillors: P S Le Chevalier
D P Murphy

Officers:

Legal Adviser: Head of Legal Services
Licensing Officer: Licensing Enforcement Officer
Administrator: Democratic Support Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2017/001A).

21 APOLOGIES FOR ABSENCE

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

22 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.

23 DECLARATIONS OF INTEREST

There were no declarations made by Members.

24 LICENSING ACT 2003 - APPLICATION FOR THE GRANT OF A PREMISES LICENCE AT BREAKWATER BREWERY AND TAP ROOM, ST MARTINS YARD, LORNE ROAD, DOVER.

The sub-committee considered an application from Breakwater Brewery Ltd in respect of Breakwater Brewery and Tap Room, St Martin's Yard, Lorne Road, Dover CT16 2AA. The application was for the grant of a Premises Licence for:

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

| | |
|----------------------|--------------------|
| Every Day | 10:00 to 22:30 hrs |
| Non Standard timings | |

| | |
|--|--------------------------------------|
| as follows: | |
| 19 May to celebrate the anniversary of the business | 10:00 to 00:30 hrs the day following |
| 8 September and 11 November to celebrate the birthdays of the owners | 10:00 to 00:30 hrs the day following |
| St Andrew's Day | 10:00 to 00:30 hrs the day following |
| St George's Day | 10:00 to 00:30 hrs the day following |
| St Patrick's Day | 10:00 to 00:30 hrs the day following |
| St David's Day | 10:00 to 00:30 hrs the day following |
| Dover Carnival Procession Day | 10:00 to 00:30 hrs the day following |
| Friday, Saturday and Sunday of the following weekends: | |
| Easter | 10:00 to 00:30 hrs the day following |
| May Bank Holidays | 10:00 to 23:00 hrs the day following |
| August Bank Holiday | 10:00 to 00:30 hrs the day following |
| New Year's Eve | 10:00 to 02:30 hrs the day following |

On the basis of the representations of the applicant, his representatives, 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) Kent Police viewed the application during the consultation process and requested that a condition be applied to the licence which related to the CCTV. This was added to the operating schedule by the applicant so subsequently Kent Police chose not to make formal representation.
- (iii) There was information contained within the representation that was not relevant to the Licensing Objectives and therefore could not be considered by the sub-committee.
- (iv) Mr P Lowry, the designated premises supervisor, was an experienced licensee, having been involved in the licensing trade for most of his life. He

has a degree in Hospitality and has worked in many bars and nightclubs across the world.

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 18 of the Licensing Act which deal with applications for premises licence and determination of such application.
- (iv) The judgment in the case of Daniel Thwaites PLC V Wirral Borough Magistrates Court [2008] EWHC 38 (Admin).

RESOLVED: That the application for a premises licence in respect of Breakwater Brewery and Tap Room, St Martin's Yard, Lorne Road, Dover CT16 2AA be determined as follows:

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

| | |
|--|--------------------------------------|
| Every Day Non Standard timings as follows: | 10:00 to 22:30 hrs |
| 19 May to celebrate the anniversary of the business | 10:00 to 00:30 hrs the day following |
| 8 September and 11 November to celebrate the birthdays of the owners | 10:00 to 00:30 hrs the day following |
| St Andrew's Day | 10:00 to 00:30 hrs the day following |
| St George's Day | 10:00 to 00:30 hrs the day following |
| St Patrick's Day | 10:00 to 00:30 hrs the day following |
| St David's Day | 10:00 to 00:30 hrs the day following |
| Dover Carnival Procession Day | 10:00 to 00:30 hrs the day following |
| Friday, Saturday and Sunday of the following weekends: | |
| Easter | 10:00 to 00:30 hrs the day following |

| | |
|---------------------|--------------------------------------|
| May Bank Holidays | 10:00 to 23:00 hrs the day following |
| August Bank Holiday | 10:00 to 00:30 hrs the day following |
| New Year's Eve | 10:00 to 02:30 hrs the day following |

Subject to conditions consistent with the operating schedule which (for the avoidance of doubt) includes the CCTV condition suggested by Kent Police.

The meeting ended at 11.23 am.