

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- (iv) The review hearing was held on 19 January and as a result of the hearing the premises licence was revoked.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.