

Public Document Pack



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26 February 2019

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 6 March 2019 at 5.30 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 democraticservices@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:

B W Butcher (Chairman)	P S Le Chevalier
B Gardner (Vice-Chairman)	S M Le Chevalier
S F Bannister	D P Murphy
P M Brivio	A M Napier
D G Cronk	M J Ovenden
A Friend	M Rose
B J Glayzer	P Walker
P D Jull	

AGENDA

1 **APOLOGIES**

To receive any apologies for absence.

2 **APPOINTMENT OF SUBSTITUTE MEMBERS**

To note appointments of Substitute Members.

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

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

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

To confirm the attached Minutes of the meeting of the Committee held on 30 January 2019.

5 **MINUTES OF SUB-COMMITTEE MEETINGS** (Pages 6 - 17)

To receive the attached minutes of the meetings of the Licensing Sub-Committees held on 19 September 2018, 18 January and 1 February 2019.

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 Services Officer, telephone: (01304) 872305 or email: democraticservices@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 January 2019 at 5.30 pm.

Present:

Chairman: Councillor B W Butcher

Councillors: B Gardner
P M Brivio
D G Cronk
A Friend
B J Glayzer
P D Jull
P S Le Chevalier
S M Le Chevalier
D P Murphy
A M Napier
M J Ovenden
P Walker

Officers: Head of Governance
Democratic Services Officer

15 APOLOGIES

An apology for absence was received from Councillor S F Bannister.

16 APPOINTMENT OF SUBSTITUTE MEMBERS

There were no substitute members appointed.

17 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

18 MINUTES

The Minutes of the meeting of the Committee held on 13 November 2018 were approved as a correct record and signed by the Chairman.

19 MINUTES OF SUB-COMMITTEE MEETINGS

The Minutes of the meetings of the Licensing Sub-Committees held on 8 October, 30 October and 9 November 2018 were received and noted.

20 LICENSING ACT 2003 AND GAMBLING ACT 2005 - AMENDMENTS TO LICENSING SUB-COMMITTEES

Following the changes to the membership of the Licensing Committee made by full Council on 12 December 2019 Members were required to appoint the new members to sub-committees and appoint a new Chairman to Sub-Committee D.

RESOLVED: That the following sub-committees be amended as follows:

Sub-Committee A:	B W Butcher (Chairman)	M J Ovenden	P Walker
Sub-Committee B:	B Gardner (Chairman)	D G Cronk	A Friend
Sub-Committee C:	S M Le Chevalier (Chairman)	B Glayzer	P D Jull

The meeting ended at 5.34 pm.

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Wednesday, 19 September 2018 at 10.00 am.

Present:

Chairman: Councillor D Hannent

Councillors: M J Ovenden (as substitute for Councillor S M Le Chevalier)
P Walker (as substitute for Councillor P D Jull)

Officers: Head of Governance
Licensing Team Leader
Licensing Enforcement Officer
Democratic Services Manager

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2018/0004V) (Minute No. 16) and (NOD/2018/0005A) (Minute No. 17).

13 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors P D Jull and S M Le Chevalier.

14 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that in accordance with Council Procedure Rule 4, Councillors M J Ovenden and P Walker had been appointed as substitute members for Councillors S M Le Chevalier and P D Jull respectively.

15 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

16 LICENSING ACT 2003 - APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS PREMISES SUPERVISOR

The Sub-Committee considered an application from Admiral Taverns for the variation of the premises licence to specify an individual as the Designated Premises Supervisor (DPS).

The hearing was required due to Chief Inspector M Weller, on behalf of Kent Police, giving notice to the licensing authority under section 37(5) of the Licensing Act 2003, within the required period, that to grant the application would undermine the licensing objective of prevention of crime and disorder.

On the basis of the representations of the applicant and the responsible authority, the Sub-Committee found the following facts to be established:

- (i) The Mill Inn was situated in a challenging area of Deal
- (ii) That an incident had occurred at the Mill Inn on 19 June 2018 at 02:55 hours when an unknown male arrived at the premises after an England football match and was allowed to remain in the premises with others until a fight

broke out in the bar area. A further scuffle followed outside when the offender was ejected from the premises by the applicant for the DPS, who had at the time been working behind the bar. Kent Police were called to the incident and launched an investigation.

- (iii) It subsequently emerged that the applicant for the DPS had been left to run the premises by the appointed Designated Premises Supervisor at the time as they were out of the country. At the time of the incident, the then Designated Premises Supervisor had been out of the country for about 2 months.
- (iv) The DPS applicant had worked at the premises since around September 2015 and had been in place as the premises manager for a period of approximately 12 months.
- (v) During the investigation, it was established that on the night of the incident, 11 alcohol sales had taken place between the terminal hour of 00:00 hours and 00:30 hours. The Mill Inn Premises licence requires the terminal hour for service of alcohol to be 00.00 hours and for it to close to the public at 00:30 hours. However, on 19 June 2018 there were a number of people who had been allowed to remain on the premises until 02:55 hours when the incident took place.
- (vi) That, having completed his BIIAB Licensing Course in December 2017, the DPS applicant should have been aware of the licensing objectives and the terminal hours of operation of the premises. This course was undertaken before the incident on 19 June 2018.
- (vii) That at the time of the incident on 19 June 2018, the DPS applicant had not applied for a personal licence.
- (viii) That the applicant's reference to the lack of 'exceptional circumstances' was a matter only for Kent Police under section 37(5) of the Licensing Act 2003. By service of a notice under s.37(5), the Police had demonstrated that they considered there to be exceptional circumstances and it was not a matter for the Licensing Sub-Committee to consider in its deliberations.

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.

RESOLVED: (i) That the application for the variation of the premises licence to specify an individual as the Designated Premises Supervisor be REJECTED on the basis that the Sub-Committee consider it appropriate for the promotion of the crime prevention objective to do so, for the following reason:

- a. The incident which took place at the premises on 19 June 2018 was after the time that the DPS applicant had obtained his licensing qualification and as such,

he should have been aware of his responsibilities as the bar manager and fully aware of the licensing objectives. In addition, having worked at the premises for some three years and having been the manager for approximately 12 months, he should have been fully aware of the times of closing and the time of the various licensable activities.

17 LICENSING ACT 2003 - APPLICATION FOR THE GRANT OF A PREMISES LICENCE IN RESPECT OF 10 DELF STREET, SANDWICH

The Sub-Committee considered an application from Mr W Greenham in respect of 10 Delf Street, Sandwich, Kent CT13 9BZ. The application was for the grant of a premises licence for:

Supply of Alcohol (for consumption on the premises)

Monday – Thursday	11:00 to 23:00 hrs
Friday – Saturday	11:00 to 00:00 hrs
Sunday	11:00 to 22:00 hrs

Recorded Music

Friday – Saturday	10:00 to 00:00 hrs
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Late Night Refreshment

Friday – Saturday	23:00 to 00:00 hrs
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On the basis of the representations of the applicant and his representative, and other persons, the Sub-Committee finds the following facts to be established.

- (i) There had been no representations made by any of the Responsible Authorities, including the Police. PC S Noddings had not made representation but asked the applicant that the following conditions should be attached to the premises licence, should it be granted:

CCTV

CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition.

- Cameras shall encompass all ingress and egress areas to the premises and all areas where the sale, supply and consumption of alcohol occurs.
- Equipment must be maintained in good working order, be correctly time and date stamped, recordings MUST be kept on the hard drive and kept for a period of 28 days and handed to Police or authorised bodies upon reasonable request.

- The premises licence holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format to the Police and Local Authority upon reasonable request.
- In the event of technical failure of the CCTV equipment the premises licence holder or DPS must report the failure to the Police Licensing Officer within 24 hours unless the CCTV will be repaired before that time

Challenge 25 Policy

A 'Challenge 25' policy will be adopted at the premises and all staff will be fully trained and posters advertising the policy will be placed in prominent places.

Training

All staff engaged in the supply of alcohol are to be fully trained in their responsibilities under the Licensing Act 2003 and a training record is to be maintained and provided to Police or Local Authority Officers on reasonable request.

Incident Register

The premises licence holder or designated premises supervisor must keep an incident register. Staff are to be trained to complete an incident book/records immediately after the incident but no later than the end of their shift.

The register must be kept on the premises and will detail

- Day, date and time of incident
- Nature of incident
- Resolution

Each entry is to be checked and signed by the DPS/Licensee no later than 1 week after the entry has been made. The register must be made available to Police, Police Licensing Officers and authorised officers from the Local Authority either electronically or hard copy.

- (i) That there was no cumulative impact assessment of problems caused by the licensed premises in the area. As a result there was no special policy in respect of this location.
- (ii) Residential properties were within close proximity of 10 Delf Street. At the hearing the objectors stated that there were issues with noise and anti-social behaviour from some of the existing licensed premises in the areas.
- (iii) That the applicant would be installing CCTV.

- (iv) That the applicant's intention was to provide a community, family friendly establishment offering locally produced alcohol products

In reaching its findings the Sub-Committee had taken 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.

RESOLVED: (a) That the application for a premises licence in respect of 10 Delf Street, Sandwich, Kent CT13 9BZ be GRANTED as follows:

Supply of Alcohol (for consumption on the premises)

Monday – Thursday	11:00 to 23:00 hrs
Friday – Saturday	11:00 to 00:00 hrs
Sunday	11:00 to 22:00 hrs

Recorded Music

Friday – Saturday	10:00 to 00:00 hrs
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Late Night Refreshment

Friday – Saturday	23:00 to 00:00 hrs
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Subject to the following conditions:

- (i) That all doors and windows must be closed from 23:00 to 00:00 hours except to allow ingress and egress of patrons.
- (ii) General
All staff will be fully trained in their responsibilities under the Licensing Act 2003, and a training record is to be maintained and made available to Police or Authorised Officers on request.
- (iii) Prevention of Crime and Disorder
CCTV will be operational throughout the premises, and comply with relevant codes of practice and 'Data Protection' legislation, and recorded for a minimum of 28 days, and made available to the Police and Local Authority on request.

A clear notice will be displayed showing the hours for licensable activities.

There will be a drinking up time of 20 minutes before closure of the premises.

A log book is to be maintained at the premises detailing any refusals/incidents at the premises, and provided to Police or Authorised Officers on request.

(iv) The Prevention of Public Nuisance

Speakers for recorded music to be hung and not connected to the floor, with rubber cushioning in between where the bracket meets the wall.

Prominent, clear and legible notices to be displayed at the exit requesting patrons to respect nearby residents and leave quietly.

Deliveries to be limited to socially acceptable times

Customers will not be admitted to the premises outside of opening hours.

(v) Protection of Children from Harm

Challenge 25 to be in operation at the premises.

The meeting ended at 12.19 pm.

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Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Friday, 18 January 2019 at 10.00 am.

Present:

Sub-Committee:

Chairman: Councillor B Gardner

Councillors: A Friend
P Walker

Officers:

Legal Adviser: Contentious and Regulatory Lawyer
Licensing Officer: Licensing Team Leader
Licensing Enforcement Officer
Administrator: Democratic Services Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/19/0001V).

31 APOLOGIES FOR ABSENCE

There were no apologies for absence.

32 APPOINTMENT OF SUBSTITUTE MEMBERS

There were no substitute members appointed.

33 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

34 LICENSING ACT 2003 - APPLICATION TO VARY A PREMISES LICENCE AT MARLEYBROOK HOUSE, STOURMOUTH ROAD, PRESTON, CANTERBURY

The Sub-Committee considered an application from Kris and Janie Saxby in respect of Marleybrook House, Stourmouth Road, Preston, Canterbury. The application was for the variation of a premises licence to remove the limitation from the current licence which restricted the venue to a maximum of 40 events per year.

On the basis of the representations of the applicant, his employee 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 the concerns of the three representations received were with regard to: the increase in traffic through Preston that would be created by the additional events; the noise from music at the venue; and the increase in firework displays and the noise created from them which had a distressing effect on animals.

- (iii) Mr Pidgen advised that Preston had many blind bends and a limited number of footpaths. He was aware, being a member of the parish council and the A257 Committee, that Kent County Council Highways had advised them there was a limited chance to make improvements. The traffic issue could not be attributed to the premises.
- (iv) Marleybrook House had parking on site for 200 cars and numerous coaches. On average there would be between 20 to 40 cars on site at events as most guests would car share. There had been no complaints from the venue's closest neighbours concerning traffic.
- (v) The objections regarding noise mainly concerned music and fireworks. Those who provided representations described how the fireworks distressed the livestock in the village. Jill Matthews owned pedigree goats and described an incident involving horses (not her own) that were kept in Grove Road and how they were startled by an explosion from fireworks and as a consequence ran into the electric fences.
- (vi) The Committee noted that no other residents who owned livestock had made representation.
- (vii) Mr Saxby advised that there had been 4 firework displays at the venue in the last 4 years and that they insisted that all displays were before 10:30pm. They were responsible business owners who had introduced measures at the venue, above and beyond what was required, to ensure as little disturbance to local residents as possible. These measures included a decibel reader for sound control, soundproofed stage and DJ area as well as notices at the venue asking guests to leave the venue quietly. Mr Saxby had voluntarily met with Dover District Council's (DDC's) environmental health to ask for their advice on any further measures they could make to improve the business from a noise/nuisance aspect.
- (viii) Reference was made to the nearby housing development that was incomplete and the effect the noise will have on those residents. The Legal Officer advised that this was speculation as to how and whether new residents would consider there was an undermining of the licensing objectives and therefore could not be taken into consideration.
- (ix) A firework display was not a licensable activity and therefore a condition had not been placed on the licence. To address the objectors concerns the applicants amended their application to offer a condition to their licence that would restrict the number of firework displays at the venue to 10 per year.
- (x) Mr Saxby was willing to reduce the number of firework displays at the venue to 5 per year following a request from the Sub-Committee.
- (xi) In response to the representations which stated that by allowing the restrictions to be lifted would set a precedent, the Licensing Team Leader confirmed that Preston Court were able to hold events 365 days per year and there was no condition on their licence with regard to fireworks.
- (xii) Mr Pidgen raised a question concerning planning permissions. This was not for the consideration of the Licensing Committee and therefore no consideration was given to this.

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) Article 6 of the Human Rights Act (Right to a fair trial).

RESOLVED: (a) GRANT the variation to the premises licence to permit events at the venue 365 days of the year.

- (b) A maximum of 5 firework displays per year will be permitted at the venue. Notification will be given to Preston Parish Council and the Licensing department (DDC) four weeks prior to the fireworks events taking place.

The meeting ended at 11.30 am.

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Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Friday, 1 February 2019 at 10.00 am.

Present:

Sub-Committee:

Chairman: Councillor P M Brivio

Councillors: A M Napier
M J Ovenden (as substitute for Councillor S F Bannister)

Officers:

Legal Adviser: Contentious and Regulatory Lawyer
Licensing Officer: Licensing Enforcement Officer
Licensing Apprentice
Administrator: Democratic Services Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/19/0002V).

35 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor S F Bannister.

36 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor M J Ovenden had been appointed as substitute member for Councillor S F Bannister.

37 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

38 LICENSING ACT 2003 - APPLICATION TO VARY A PREMISES LICENCE AT LONDIS, 97-99 ST. RICHARD'S ROAD, DEAL

The Sub-Committee considered an application from Sornavadivel Sornaraj in respect of Londis, 97-99 St Richard's Road, Deal. The application was for the variation of a premises licence as follows:

Supply of Alcohol (for consumption OFF the premises

Monday to Saturday	06:00 hrs to 23:00 hrs
Sunday	06:00 hrs to 22:30 hrs

and the removal of the following condition

'Alcohol shall not be sold in an open container or be consumed in the licensed premises.'

On the basis of the representations of the applicant's 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) One representation was received from Councillor A S Pollitt (ward councillor). Within his representation he stated that he would be satisfied if the premises were to have a licence from 7am. No representations were received from any local residents, including those in the nearest neighbouring properties.
- (iii) The Licensing Enforcement officer advised that other stores in the Mill Hill area were licensed from 06:00 to 23:00 hrs and were permitted to serve alcohol. The actual opening hours of the stores were not for the consideration of the Licensing Sub-Committee.
- (iv) Mr Bartlett advised that Mr Sornaraj owned three other stores in the area and that each were managed responsibly, complying with all of the licensing objectives. The Licensing Enforcement Officer confirmed that no complaints had been made about the running of those premises. Councillor Pollitt had made reference to a premises in Dover but this was not managed by the applicant.
- (v) Councillor Pollitt stated that the variation would increase crime and disorder and create a public nuisance. The store was on a busy road and located at a busy junction with St Mary's School 300 yards away from the premises. Mr Bartlett told Members that there was parking at the Londis store for up to 6 vehicles and pupils started school at 08:45 hrs.
- (vi) It was acknowledged that St Richard's Road was a busy road. Between the hours of 06:00 – 07:00 hrs the road was quiet and it was not anticipated that there would be a rush of customers to the Londis Store at these times. It was thought that alcohol purchases would generally be made in addition to customer's usual purchases and not their sole purchase.
- (vii) Section 137 of the Licensing Act 2003 states that it is an offence to display alcohol at times when licensable activity is not permitted. The hours requested were required to bring the permitted sale of alcohol in line with the opening hours of the store.
- (viii) Having met with PC S Noddings, Mr Sornaraj offered to implement three additional measures within the operating schedule to promote the licensing objectives (as shown in the report).
- (ix) In addition, Mr Sornaraj requested that the following condition be removed from the existing licence:

'Alcohol shall not be sold in an open container or be consumed in the licensed 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) Article 6 of the Human Rights Act.

RESOLVED: (a) GRANT the application for the variation to the premises licence in respect of Londis, 97-99 St Richard's Road, Deal as follows:

- (i) Supply of Alcohol (for consumption OFF the premises)

Monday – Saturday	06:00 hrs to 23:00 hrs
Sunday	06:00 hrs to 22:30 hrs

- (ii) The following condition to be removed

'Alcohol shall not be sold in an open container or be consumed in the licensed premises.'

The meeting ended at 10.44 am.