

# Public Document Pack



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22 January 2019

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **LICENSING COMMITTEE** will be held in the Council Chamber - Council Offices on Wednesday 30 January 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](mailto: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 13 November 2018.

5 **MINUTES OF SUB-COMMITTEE MEETINGS** (Pages 6 - 24)

To receive the attached minutes of the meetings of the Licensing Sub-Committees held on 8 October, 30 October and 9 November 2018.

6 **LICENSING ACT 2003 AND GAMBLING ACT 2005 - AMENDMENTS TO LICENSING SUB-COMMITTEES** (Page 25)

Following the meeting of the full Council on 12 December 2018, Members are asked to appoint Councillors B J Glayzer and P Walker to a sub-committee and to appoint a Chairman to Sub-Committee D in accordance with the attached report.

**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](http://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](mailto: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 Tuesday, 13 November 2018 at 9.30 am.

Present:

Chairman: Councillor B W Butcher

Councillors: S F Bannister  
P M Brivio  
A Friend  
B Gardner  
D Hannent  
P D Jull  
P S Le Chevalier  
S M Le Chevalier  
D P Murphy  
M J Ovenden

Officers: Contentious and Regulatory Lawyer  
Head of Regulatory Services  
Licensing Team Leader  
Democratic Services Officer

8 APOLOGIES

There were apologies for absence received from Councillors M R Eddy, A M Napier and M Rose.

9 APPOINTMENT OF SUBSTITUTE MEMBERS

There were no substitute Members appointed.

10 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

11 MINUTES

The Minutes of the meeting of the Committee held on 23 May 2018 were approved as a correct record and signed by the Chairman.

12 MINUTES OF SUB-COMMITTEE MEETINGS

The Minutes of the meetings of the Licensing Sub-Committees held on 18 May and 24 August 2018 were received and noted.

13 LICENSING ACT 2003 AND GAMBLING ACT 2005 - APPOINTMENT OF LICENSING SUB-COMMITTEE

At full Council on 31 October 2018 a change of membership was made to the Licensing Committee replacing Councillor P Walker with Councillor D G Cronk. As a result the Committee was asked to appoint Councillor D G Cronk to a Sub-Committee.

RESOLVED: That Sub-Committee A be amended as follows:

(A) Councillor B W Butcher (Chairman), Councillor M J Ovenden,  
Councillor D G Cronk.

14 FEES AND CHARGES 2019/20

Members considered the report of the Head of Regulatory Services which set out the Fees and Charges for the financial year 2019/20.

- RESOLVED:
- (a) That the Regulatory Committee approve the Fees and Charges for 2019/20 as set out in Appendix 4 of the report.
  - (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 is 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 9.36 am.

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Monday, 8 October 2018 at 10.00 am.

Present:

Sub-Committee:

Chairman: Councillor S F Bannister

Councillors: A M Napier  
M J Ovenden (as substitute for Councillor P M Brivio)

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/18/0009V).

18 ELECTION OF A CHAIRMAN

In the absence of the Chairman, the Democratic Services Officer asked Members to elect a Chairman for the meeting.

It was moved by Councillor M J Ovenden and duly seconded that

RESOLVED: Councillor S F Bannister be appointed as Chairman for the remainder of the meeting.

19 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor P M Brivio.

20 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor M J Ovenden was appointed as substitute for Councillor P M Brivio.

21 DECLARATIONS OF INTEREST

Councillor M J Ovenden declared a Voluntary Announcement of Other Interests (VAOI) by way of her knowing some of the objectors, although they were not friends. She would base her decision on the evidence and legal advice provided and without bias.

22 LICENSING ACT 2003 - APPLICATION TO VARY A PREMISES LICENCE AT CRISPIN INN, 4 HIGH STREET, SANDWICH

The sub-committee considered an application from Punch Partnerships (PTL) Limited in respect of Crispin Inn, 4 High Street, Sandwich. The application was for

the variation of a premises licence to increase the hours allowed for alcohol sales and to include the provision of late night refreshment as followed:

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

Monday – Wednesday	NO CHANGE – 00:00 hrs
Thursday	NO CHANGE
Friday – Saturday	NO CHANGE – 01:00 hrs
Sunday	11:00 – 23:30 hrs
Non-standard timings	
<p>To retain the existing non-standard timings and add the following:</p> <p>Terminating an hour later on Bank Holiday Saturdays and Sundays, St George’s Day, St David’s Day, St Patrick’s Day, St Andrew’s Day, Burns night, Valentine’s Night, Halloween, Bonfire Night and 27, 28, 29 and 30 December.</p>	

NB It was noted that the report had omitted the following non-standard timing on the current licence for the Sale of Alcohol:

‘New Year’s Eve start of permitted hours to close of business at the terminal hour on New Year’s Day’.

Late Night Refreshment

Monday – Thursday	23:00 – 00:30 hrs
Friday – Saturday	23:00 – 01:30 hrs
Sunday	23:00 – 00:00 hrs
Non-standard timings	
<p>An additional hour to the terminal hour on all Bank Holiday Friday to Mondays, Maundy Thursday</p>	

The application also sought to remove all existing conditions under Annexes 2 and 3 of the premises licence as follows:

**ANNEX 2**

General

Alcohol shall not be sold or supplied except during permitted hours.

The restrictions do not prohibit:

- (a) During the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (b) Consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;
- (c) The ordering of alcohol to be consumed off the premises or the despatch by the vendor of the alcohol so ordered;
- (d) The sale of alcohol to a trader or club for the purposes of the trade or club;
- (e) The sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- (f) The taking of alcohol from the premises by a person residing there; or
- (g) The supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or
- (h) The supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

Where the Premises Supervisor exercises their right to move fire safety equipment, AWP and cigarette machines, such relocation shall be to such a position as to allow proper supervision by staff.

#### Public Safety

A current gas safety certificate shall be in force and renewed annually.

A current electrical safety certificate shall be in force and renewed annually.

A current fire safety certificate shall be in force and renewed annually.

#### The Prevention of Public Nuisance

Signs shall be placed in a clear and visible position adjacent to all public exits/entrances requesting customers to leave quietly.

#### The Protection of Children from Harm

No unaccompanied children shall be allowed on the premises.

### **ANNEX 3**

Regulated entertainment in the form of live and recorded music be limited to a maximum of 12 events per annum the dates of which to be advised in writing in advance to the Licensing Manager.

Amplified and/or acoustic music performed by no more than 2 entertainers.

Following pre-consultation with the Police and Environmental Health, the following conditions were offered within the application:



### Prevention of crime and disorder

- Premises to install and maintain a comprehensive CCTV system. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 28 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officers.
- There will be a zero tolerance to drug and alcohol misuse.
- A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale.

### Prevention of Public Nuisance

- All windows and doors will be kept shut when regulated entertainment, in the form of live and recorded music, is taking place, except in the event of an emergency and to permit access and egress to and from the premises.
- Prominent, clear and legible notices shall be displayed at all exits requesting customers to respect the needs of local residents and businesses and to leave the premises and the area quietly.
- No noise generated on the premises shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- The Premises Licence Holder, DPS or other nominated persons shall undertake routine monitoring whilst live and recorded music is taking place to ensure that external levels of music are not excessive and take action where appropriate.
- The placing of refuse – such as bottles – into receptacles outside the premises to only take place at times that will minimise the disturbance to nearby properties.

### Protection of children from harm

- A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS hologram.
- Challenge 21 posters shall be displayed in prominent positions at the premises.
- All staff shall be trained in the Challenge 21 proof of age scheme. Such training shall be provided at least every 6 months and a record shall be kept of all training and refresher training.

- No unaccompanied children shall be allowed on the premises.

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) There had been no complaints or reports made to the council's Environmental Health, Licensing department nor the Police regarding the premises.
- (iii) Prior to the application being submitted, the applicant consulted with Brian Gibson, Environmental Health and PC Steve Noddings, Kent Police. As a result the applicant sought to remove conditions under Annex 2 and Annex 3 of the premises licence and to update them with updated and proportionate conditions.
- (iv) During the consultation period, a total of 10 letters objecting and 10 letters supporting the application were received. The supporting letters did not contain names and addresses of those who had made representation. As their permission had not been able to be obtained their personal details were not published with the hearing papers but their representations were.
- (v) That the objectors, who were also local residents, stated that their concerns with the extended licence were with what happened once patrons left premises and the anti-social behaviour an additional late licence would bring. From their homes the representors could hear the loud conversations/arguments in the streets after patrons have left premises. Objectors described how patrons walk back to their cars, which may be parked in the residential streets, and proceed to have conversations at their car and bang their car doors. They were already woken late at night and the extended licence would only add to that and would in turn degrade their quality of life.
- (vi) Jocelyn Green had bottles and glasses thrown onto her property after people had left premises in the area late at night. She had experienced people vomit and urinate on her property. It was her opinion that the local community did not want to eat and drink into the early hours as the applicant suggested in their application.
- (vii) Henry Quinn supported the application and did not think the proposed variation would affect the current situation. He agreed with the objectors and the problems they described, although in his view allowing the variation would bring the Crispin Inn into alignment with other licensed premises in the area and would not add to the problem. Patrons currently finished drinking in the Crispin Inn and crossed over the road to the Admiral Owen and drink later into the night. He stated that the Crispin Inn was a very well managed pub and if there were any issues, customers were asked to leave. It was his opinion that it was important to maintain viable pubs and provide jobs for young people.
- (viii) Objectors thought the extra hour requested for all bank holidays (non-standard timings) for the sale of alcohol and late night refreshment was excessive.

- (ix) The objectors were concerned that there will be a take away service from the premises if the late night refreshment is permitted. The Designated Premises Supervisor, Mr Terry West, assured objectors that the late night refreshment request was to allow a hot drink to be served past 23:00 hrs and that no hot food would be served. The kitchen closed at 21:00 hrs.
- (x) Mr West had been running the Crispin Inn for the last 8 years and was experienced in dealing with rowdy, over intoxicated patrons if need be. He would ask rowdy customers to leave and would refuse to serve anyone who he deemed to have drunk too much. He was confident it was a well-run premise. Mr West lived at the premises.
- (xi) The applicant's solicitor addressed the concerns contained within the written representations. He explained that when there was live music at the premises Mr West checked noise levels from outside the premises and carried out regular boundary checks to ensure all windows and doors remained closed. Mr West liaised with the residents in the adjoining Barbican property and adjusted the volume if required.
- (xii) The sub-committee did find that there were issues with noise and anti-social behaviour but it was not satisfied that it was caused by this premise. No reports had been made to the DDC licensing team about the premises and no representations had been made by police in regard to this matter.
- (xiii) Having considered the representations at the Hearing the applicant amended the late night refreshment and non-standard timings as followed:

Late Night Refreshment

Monday – Thursday	23:00 – 00:00 hrs
Friday – Saturday	23:00 – 01:00 hrs
Sunday	23:00 – 23:30 hrs
Non-standard timings New Year	From start of permitted hours on New Year's Eve to the terminal hour on New Year's Day

The non-standard timings for the Sale of Alcohol were removed save New Year as followed:

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

Non-standard timings New Year	From start of permitted hours on New Year's Eve to the terminal hour on New Year's Day
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- (xiv) It was offered by the applicant to include an additional two conditions to further promote the licensing objectives as followed:

- (1) Drinks shall only be permitted to be taken outside to the rear seating area of the premises and not onto the High Street.
- (2) Prominent notices will be placed outside asking patrons to drink and smoke in the designated areas provided.
- (xv) The premises would close half an hour after the sale of alcohol.
- (xvi) A Challenge 21 proof of age scheme would be operated at the premises. It was suggested by PC Noddings at pre-consultation that a Challenge 25 scheme be implemented.
- (xvii) The premises opening hours were not for the consideration of the sub-committee. Serving breakfast on the premises was not a licensable activity and therefore did not require permission.

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 (Right to a fair trial).

RESOLVED: (a) GRANT the application for the variation to the premises licence in respect of Crispin Inn, 4 High Street, Sandwich as follows:

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

Monday – Thursday	11:00 – 00:00 hrs
Friday – Saturday	11:00 – 01:00 hrs
Sunday	11:00 – 23:30 hrs
Non-standard timings New Year	From start of permitted hours on New Year's Eve to the terminal hour on New Year's Day

Late Night Refreshment

Monday – Thursday	23:00 – 00:00 hrs
Friday – Saturday	23:00 – 01:00 hrs
Sunday	23:00 – 23:30 hrs
Non-standard timings New Year	From start of permitted hours on New Year's Eve to the terminal hour on New Year's Day

(ii) Subject to the following conditions:

Prevention of crime and disorder

- Premises to install and maintain a comprehensive CCTV system. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 28 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officers.
- There will be a zero tolerance to drug and alcohol misuse.
- A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale.

Prevention of Public Nuisance

- All windows and doors will be kept shut when regulated entertainment, in the form of live and recorded music, is taking place, except in the event of an emergency and to permit access and egress to and from the premises.
- Prominent, clear and legible notices shall be displayed at all exits requesting customers to respect the needs of local residents and businesses and to leave the premises and the area quietly.
- No noise generated on the premises shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- The Premises Licence Holder, DPS or other nominated persons shall undertake routine monitoring whilst live and recorded music is taking place to ensure that external levels of music are not excessive and take action where appropriate.
- The placing of refuse – such as bottles – into receptacles outside the premises to only take place at times that will minimise the disturbance to nearby properties.
- Drinks shall only be permitted to be taken outside to the rear seating area of the premises and not onto the High Street.

- Prominent notices will be placed outside asking patrons to drink and smoke in the designated areas provided.

#### Protection of children from harm

- A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS hologram.
- Challenge 21 posters shall be displayed in prominent positions at the premises.
- All staff shall be trained in the Challenge 21 proof of age scheme. Such training shall be provided at least every 6 months and a record shall be kept of all training and refresher training.
- No unaccompanied children shall be allowed on the premises.

The annex 2 and 3 conditions to be removed and replaced with the above conditions.

The meeting ended at 11.39 am.

# Public Document Pack

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Tuesday, 30 October 2018 at 3.03 pm.

Present:

Sub-Committee:

Chairman: Councillor B W Butcher

Councillors: A M Napier (as substitute for Councillor P Walker)  
M J Ovenden

Officers:

Contentious and Regulatory Lawyer  
Public Protection Manager  
Licensing Team Leader  
Licensing Enforcement Officer  
Technical Support Officer (Licensing)  
Solicitor Apprentice  
Democratic Services Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/18/00010R).

23 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor P Walker.

24 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor A M Napier was appointed as substitute for Councillor P Walker.

25 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

26 LICENSING ACT 2003 - REVIEW OF A PREMISES LICENCE IN RESPECT OF DEAL GRILL, 144 HIGH STREET, DEAL

The Sub-Committee considered an application from Mr B Henderson who had requested the review of a premises licence under Section 51 of the Licensing Act 2003 in respect of Deal Grill, 144 High Street, Deal. Mr Henderson called for the review on the grounds that the licensing objectives of Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and Protection of Children from Harm were not being promoted.

On the basis of the representations of the applicant and his representative, and the Licence Holder and his representatives, the Sub-Committee found the following facts to be established:

- (i) Deal Grill was a venue that had a premises licence for the sale of alcohol and late night refreshment. The premises licence holder and Designated Premises Supervisor was Mehmet Gurbuz.
- (ii) The hours on the premises licence for licensable activities were:

**Alcohol Sales**

Sunday – Thursday	10:00 – 00:01 hrs
Friday – Saturday	10:00 – 01:00 hrs

**Late Night Refreshment**

Sunday – Wednesday	23:00 – 01:00 hrs
Thursday – Saturday	23:00 – 02:00 hrs

The opening hours for the premises were as follows:

Sunday – Wednesday	14:00 – 01:00 hrs
Thursday	14:00 – 02:30 hrs
Friday – Saturday	14:00 – 03:00 hrs

- (iii) The premises remained open as per the opening hours in order to sell cold wraps and salad, and cold drinks. The last order for hot food was taken at 01:45 hrs.
- (iv) Following a licence review hearing on 21 July 2006 conditions were applied to the premises licence as follows:
- (a) The licence holder must ensure that the areas indicated by hatching on the attached plan shall be clear of litter, which is attributable to the licence holder’s premises, after close of business every day.
  - (b) Music played inside the premises shall have a terminal hour of 23:00 hrs.
  - (c) A sign, A3 in size, shall be clearly displayed at all the public entrances/exits to the premises requesting that customers leave the premises quietly and respect the needs of the local community.
  - (d) Notices stating the last ordering times for individual food items to be placed in the premises and in the window so that staff and customers understand that the premises will close at the terminal hour. (To prevent public nuisance.)
  - (e) An operating policy to be drawn up in consultation with the Licensing Manager and Environmental Health Officers, written in Turkish and English and attached to the Premises Licence. All staff must be aware of the existence and content of this document. This is to ensure that staff are aware of closing times and procedures. (To prevent public nuisance.)



- (f) All outside lighting, including the illuminated name sign, be switched off at the terminal hour. (To prevent public nuisance.)
- (g) Blinds to be provided for the windows, excluding the door, within six weeks of this hearing and drawn at the terminal hour in order to make it clear to customers that the premises is closed for business and to permit cleaning to be undertaken without any public admittance to the premises. (To prevent public nuisance.)

Following a subsequent review on 4 December 2007, the following conditions were added to the licence:

- (h) The licence holder MUST ensure that the area indicated by the hatching on the attached plan shall be swept clear of litter and food debris which is attributable to the licence holder's premises after the close of business every day.
  - (i) The licence holder MUST ensure that the pavement area directly in front of the premises is cleaned and left free of grease on a daily basis.
  - (j) The licence holder MUST ensure that the internal CCTV is operational during business hours and that the date and time is shown on all recordings. All tapes shall be retained for a period to be agreed with the Licensing Manager and shall be handed to him if requested.
- (v) Mr Henderson had called for the review under the licensing objectives: Prevention of Crime and Disorder; Public Safety; Prevention of Public Nuisance; and Protection of Children from Harm. He alleged that the premises was open after their terminal hour and his application also stated that there was an issue with anti-social behaviour in Deal every Friday, Saturday and nearly every Sunday.
  - (vi) Mr Henderson and Councillor Gardner had expected the police, Anti-Social Behaviour team or Environmental Health to be in attendance at the Hearing, given there had been dozens of complaints. No representations however were received from the Responsible Authorities, including the Police. No representations were received from any other persons. Councillor Gardner told the Sub-Committee that he had received telephone calls from other residents with regard to the premises but they were not prepared to make representation and that he, as ward councillor, would do so on their behalf.
  - (vii) Evidence was provided by Mr Henderson in the form of emails and some photos accompanying those emails. A total of 33 emails were included within the hearing pack having been sent between 29 May 2018 and 14 October 2018. In Mr Henderson's initial email he complained about anti-social behaviour in Deal and also stated that Deal grill was open past the terminal hour.
  - (viii) The photos provided by Mr Henderson were not date or time stamped. The emails gave the time the email was sent to the Licensing Team and Mr Henderson stated that these were the dates and times the incidents took place. The Sub-Committee's attention was drawn by Mr Henderson to a

number of the photos within the hearing pack. These photos, whilst showing at times some persons outside the shop, did not show any anti-social behaviour taking place nor that hot food was being served.

- (ix) On 1 June 2018, the Licensing Enforcement officer Paul James made an initial visit to Deal Grill in response to the complaint dated 29 May 2018 and made subsequent visits. Mr Gurbuz was reminded of the conditions attached to his licence and the importance of these. As a result of visits carried out on 1 June 2018, 19 June 2018, 26 June 2018, 29 June 2018, 18 July 2018, 30 August 2018 and 30 September 2018, the following was established as summarised below:
- Mr Gurbuz stated he stayed open past his licensed hours to serve salads, cold wraps and cold drinks. He did not serve hot food or beverages.
  - Mr Gurbuz did not know how to work the CCTV at the premises but his son did.
  - There was no condition which stated how long the CCTV footage should be retained. The system could show recordings for 8 days and during one of his visits the Licensing Enforcement officer asked for this to be increased.
  - There was no CCTV covering the microwave oven, which was located at the rear of the shop.
  - There was no evidence of hot food being served. The CCTV showed the kebab rotisserie had been turned off by the terminal hour on the dates and times of the checks (specified in the statement within the report) and were off when an evening enforcement visit was carried out.
  - The deep fat fryers were not covered by CCTV. Having observed footage, the Enforcement officer did not think staff spent much time in that area of the kitchen.
  - Signage had been put in place and corrected (per conditions).
  - During the evening enforcement visit, the external light was off and the blind was closed at 01:55 hrs.
- (x) The external light was shown to be left on in the photos provided by Mr Henderson. There was no evidence to prove this was past the terminal hour. The light was turned off when the evening enforcement visits took place.
- (xi) Mr Henderson believed that hot food was being served from the premises beyond its licensed hours, possibly using the microwave. During visits carried out by the Licensing Enforcement officer, the rotisserie and hot plates were turned off and there was no evidence of hot food being served. The CCTV footage viewed by the officer showed that staff were not seen to be using the deep fat fryers and although the CCTV cameras did not cover the microwave at the rear of the shop no staff were seen to be spending any time in that area.
- (xii) Councillor Gardner asked that a condition be added to the licence to increase the CCTV retention period to the standard 28 days and that the CCTV cameras should cover the microwave ovens to provide assurance that no food was being reheated past the terminal hour. Mr Hopkins would be happy to accept this condition.

- (xiii) There was a condition on the licence which stated the blinds should be drawn at the terminal hour. Mr Hopkins stated that the condition did not state how far the blinds should be drawn and confirmed that the blind had been removed to be cleaned.
- (xiv) Mr Henderson was of the opinion that people were drawn to that end of town late at night as the premises was open past the closing time of the pubs and clubs. Mr Henderson stated that every Friday, Saturday and Sunday night drunk people would go to the premises and he would be woken by shouting, the banging of car doors and car engines. People had also vomited on his steps. Mr Henderson stated that there were often issues with anti-social behaviour however this behaviour could not be said to be attributed to the premises.
- (xv) Temporary Event Notices were in place for 24, 25, 26, 27, 28 and 29 July 2018 for the provision of late night refreshment from 23:00 to 05:00 hrs.

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 (Right to a fair trial).

#### RESOLVED:

Taking into account the above facts, the Sub-Committee were satisfied that the evidence provided did not prove sufficient to conclude that the licensable activities being carried out undermined the licensing objectives, nor was there sufficient evidence to conclude that any anti-social behaviour could be affiliated to or caused by the licensed premises. Whilst there had been some lack of compliance with the conditions placed on the licence in 2006 and 2007, these had now been addressed by the premises licence holder.

Whilst both the applicant for the review and the premises licence holder suggested that there were others who supported their respective view, the Sub-Committee was conscious that no others had made representation, including the Responsible Authorities.

The Sub-Committee decided not to alter the hours and the hours remain as per the licence, but to vary the conditions as follows:

- (a) The licence holder must ensure that the area indicated by hatching on the attached plan shall be clear of litter, which is attributable to the licence holder's premises, after close of business every day.
- (b) Music played inside the premises shall have a terminal hour of 23:00 hours.

- (c) A sign, A3 in size, shall be clearly displayed at all the public entrances/exits to the premises requesting that customers leave the premises quietly and respect the needs of the local community.
- (d) Notices stating the last ordering times for individual food items to be placed in the premises and in the window so that staff and customers understand that the premises will close at the terminal hour.
- (e) All outside lighting, including the illuminated name sign, be switched off at the terminal hour.
- (f) Blind on the front window to be drawn fully down to the base of the window at the terminal hour in order to make it clear to customers that the premises is closed for hot food business and to permit cleaning to be undertaken without any public admittance to the premises.
- (g) The licence holder **MUST** ensure that the pavement area directly in front of the premises is cleaned and left free of grease on a daily basis.
- (h) The licence holder **MUST** ensure that the internal CCTV is operational during business hours and that the date and time is shown on all recordings. All tapes shall be retained for a period of 28 days and be produced to an officer upon request. The CCTV cameras to cover the cooking areas namely where the grill, rotisserie and microwave are located **and** the front serving counter. A log to be completed and retained by the licence holder showing that weekly CCTV checks have been carried out.
- (i) Last order for hot food to be taken no later than 15 minutes before the terminal hour.

The meeting ended at 4.47 pm.

# Public Document Pack

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Friday, 9 November 2018 at 10.00 am.

Present:

Sub-Committee:

Chairman: Councillor P M Brivio

Councillors: S F Bannister  
A M Napier

Officers:

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

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/18/00011A).

27 APOLOGIES FOR ABSENCE

There were no apologies for absence received from Members.

28 APPOINTMENT OF SUBSTITUTE MEMBERS

There were no substitute Members appointed.

29 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

30 LICENSING ACT 2003 - APPLICATION FOR THE GRANT OF A PREMISES LICENCE IN RESPECT OF DEAL PIER KITCHEN, DEAL PIER, DEAL

The Sub-Committee considered an application from Deal Pier Kitchen Limited in respect of Deal Pier, Deal Pier, Deal. The application was for the grant of a premises licence for a café/restaurant at the end of Deal Pier as follows:

Supply of Alcohol (for consumption on and off the premises)

Every Day	08:00 to 00:00 hrs
Non-standard timings New Year's Eve from 08:00 hrs until New Year's Day at 02:00 hrs.	

Live Music and Recorded Music

Every Day	08:00 to 00:00 hrs
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## Late Night Refreshment

Every Day	23:00 to 00:00 hrs
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On the basis of the representations of the applicant's representatives and other persons, the Sub-Committee found the following facts to be established:

- (i) Tim Biggs and Rebecca Hodson explained their business model to the Committee. The restaurant would be family friendly, attracting visitors to the award winning pier. The food in the restaurant would be locally sourced and good quality, primarily based around a brunch and lunch offering. The hours applied for would provide longevity for the business - they would allow the business to evolve. The lease required the restaurant to be open to the public from 09:00 hrs to 16:00 hrs when the pier was open. The hours being requested for the sale of alcohol would allow them to provide an evening offering in the restaurant if required.
- (ii) Tim Biggs and Rebecca Hodson were experienced in running events and the food and beverage industry. Mr Biggs had previously been the Designated Premises Supervisor at Winters Barn, Canterbury and the owner of an events business – TB Bars. Mr Biggs had been a personal licence holder for 8 years and had worked in the trade from the age of 17 gaining lots of experience. He was experienced in late night, party focussed environments and had a strict and consistent approach to running events.
- (iii) There had been no representations made by any of the Responsible Authorities including the Police.
- (iv) During the consultation period PC Noddings contacted the applicant and as a result the applicant amended the operating schedule (as shown in the report).
- (v) Tim Biggs, advised the Committee that the operating schedule was to be further amended to remove the need to have the personal licence holder on site at all times as this would not be achievable. This had been suggested as a step to promote the licensing objective, Public Safety.
- (vi) Councillor B Gardner met with the applicant's representatives, Tim Biggs and Rebecca Hodson prior to the Hearing to discuss his concerns with the application. As a result the applicant agreed to include the following condition to promote the licensing objective 'prevention of crime and disorder':  
  
'That alcohol shall only be served during 8am and 10am as an accompaniment to the sale of food.'  
  
The intention of this was to prevent customers using the premises to purchase an alcoholic drink only and to prevent intoxication on the premises first thing in the morning.
- (vii) Further conditions were requested by Councillor Gardner as follow, but were not accepted by the applicant's representatives:

1. *That any applications for Temporary Event Notice (TEN) shall be granted with similar conditions to those suggested by PC Noddings for New Year's Eve.*

Councillor Gardner was concerned that Temporary Event Notices would be applied for fireworks parties or similar events and that the same conditions should be applied.

Karina Vickerman provided clarity that a TEN could only carry across conditions on the full licence if the matter goes before a sub-committee after an Objection Notice had been served. However the TEN applicant could suggest voluntary conditions.

2. *That alcohol sales should cease at 23:30 hrs.*

The pier closed at 00:00 hrs. Ceasing alcohol sales at 23:30 hrs would allow for the pier to be closed at midnight and deter customers entering the pier towards closing time.

3. *That the requested timings of the alcohol sales should reflect the opening hours of the pier.*

Councillor Gardner was aware that the pier closed at 18:00 hrs during the winter months and the licence should be in line with those hours.

4. *That amplified music should be restricted to inside the premises so as to prevent a noise nuisance to residents nearby.*

Karina Vickerman provided clarity on the deregulation of music and the effect of that when alcohol is being served.

5. *That any additional customers entering the premises past 22:00 hrs must purchase food.*

This was to prevent customers purchasing drinks only as it was a restaurant and not a bar.

- (viii) The restaurant would be table service. The bar would be a service bar only and there would be no seating at the bar. The plans submitted with the application showed bar seating although it was explained that the plans were drawn up early in the tender process and the business model had since progressed and did not include bar seating.
- (ix) The applicants did not know whether the premises would be required for functions after the restaurant was closed to the public although the hours they were requesting would allow for this as a possibility. A risk assessment would be carried out if a function were to take place.
- (x) A drinking up time was suggested by Councillor A M Napier to allow time for last orders and for customers to leave the pier and this was accepted by the applicants.

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 (Right to a fair trial).

RESOLVED: (a) GRANT the application for a premises licence for Deal Pier Kitchen, Deal Pier as follows:

Supply of Alcohol (for consumption on and off the premises)

Every Day	08:00 to 00:00 hrs
Non-standard timings New Year's Eve from 08:00 hrs until New Year's day at 02:00 hrs	

Live Music and Recorded Music

Every Day	08:00 to 00:00 hrs
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Late Night Refreshment

Every Day	23:00 to 00:00 hrs
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- (a) That from 08:00 to 10:00 hrs alcohol can only be served if accompanied by food.
- (b) That there will be a drink up time of 15 minutes prior to the premises closing.
- (c) The condition proposed in the Operating Schedule regarding a personal licence holder being on the premises is not necessary.

The meeting ended at 11.06 am.



LICENSING COMMITTEE MEETING – 30 JANUARY 2019

1.1 Following the meeting of the full Council on 12 December 2018, Council agreed to replace Councillors D Hannent and M R Eddy with Councillors B J Glayzer and P Walker on the Licensing Committee.

1.2 It is therefore recommended that the Licensing Committee make the following changes to the following Sub-Committees:

Sub-Committee A:	B W Butcher (CH)	M J Ovenden	<b>P Walker</b> (move D G Cronk)
Sub-Committee B:	B Gardner (CH)	D G Cronk	A Friend
Sub-Committee D:	<b>B Glayzer</b>	P D Jull	S M Le Chevalier

1.3 Members are also asked to appoint a Chairman to Sub-Committee D.

(In forming the sub-committees it should be noted that political balance requirements do not apply. The sub-committees are set up in such a way as to ensure that licence applications are not considered by Members representing the Ward in question.)