

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Friday, 31 May 2019 at 10.00 am.

Present:

Sub-Committee:

Chairman: Councillor D Hannent

Councillors: D G Beaney
O C de R Richardson

Officers:

Legal Adviser: Head of Governance
Licensing Officer: Licensing Team Leader
Administrator: Technical Support Officer - Licensing
Democratic Services Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/19/0005V).

5 APOLOGIES FOR ABSENCE

There were no apologies for absence.

6 APPOINTMENT OF SUBSTITUTE MEMBERS

There were no substitute members appointed.

7 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

8 LICENSING ACT 2003 - APPLICATION TO VARY A PREMISES LICENCE AT WALMER CASTLE PUBLIC HOUSE, SOUTH STREET, DEAL

The sub-committee considered an application from Admiral Taverns in respect of Walmer Castle Public House, South Street, Deal. The application was for the variation of the premises licence as follows:

To amend the existing conditions to read as follows:

- No re-entry into the premises after 02:00 hrs
- Extend the terminal hour for the use of the garden until 23:00 hrs Sunday – Thursday and 01:00 hrs Friday – Saturday.
- From 22:00 hrs until close of trade on Friday and Saturday evenings there shall be at least one door supervisor on duty at the premises to control access/egress of patrons.

To support the removal of the requirement for door staff on a Thursday, the applicant proposed the following condition:

'When there is entertainment held at the premises on a Thursday a minimum of 1 door supervisor must be on duty at the front of the premises to control access/egress of patrons.'

And to remove the following conditions:

- The use of the garden area beyond 22:00 hrs shall be on a trial basis for a period of 6 months from the date of the minor variation. Should complaints be received regarding the extra period of garden use, that are substantiated, or if there is a witnessing of noise nuisance by authorised officers of the Local Authority, then upon notification from the relevant authority the condition (i) above will revert back to the previous state on the 1st day after a period of 6 months from the date of change. No Minor Variation shall be required to the licence by the licence holder for this change to have effect and the licence shall be re-issues forthwith and without charge.
- From 22:00 hrs until the close of trading on Thursday, Friday and Saturday or any other days when live entertainment is present all drinks including drinks from bottles will be served in polycarbonate or similar 'glassware'.

On the basis of the representations of the applicant and his representatives, and other persons, the sub-committee found the following facts to be established:

- (i) The Licensing Team Leader at the start of the Hearing advised of an error in the report at paragraph 2.2. The third bullet point should read 'From 22:00 hrs' and not 'From 20:00 hrs.'
- (ii) The Legal Advisor clarified with the applicant's representatives that the first bullet point at paragraph 2.2 should read 'No entry or re-entry into the premises after 02:00 hrs'.
- (iii) Mr Thomas challenged the submission of further evidence from Mr McGlashan. He stated it was more prejudicial rather than probative and did not give consent to accept it. The Legal Advisor (DDC) advised that the evidence was submitted prior to the Hearing and was permissible under Regulation 18 of The Licensing Act 2003 (Hearings) Regulations 2005.
- (iv) The Licensing Team Leader read out a statement from Mr McGlashan which had been emailed to the DDC's Licensing team on 31 May 2019 at 08:23 hrs.
- (v) Members were shown video clips which were taken from a camera fitted to Mr McGlashan's property at 3 South Street, immediately opposite the Walmer Castle PH.
- (vi) It was noted there was no date stamp on the video clips. There was a time stamp and it was unknown if the time was correct.
- (vii) There was no evidence that the people in the videos were customers of the Walmer Castle PH.

- (viii) The video showing 01:10 hrs the lights could be seen to be on in the pub. The lights were off in the video displaying 01:25 hrs.
- (ix) Mr McGlashan's statement submitted with the clips explained that the clips were intended to demonstrate how the noise from a small group of people carries and echoes around South Street and to the houses to the rear in Sondes Road. Mr McGlashan stated that a larger group in the pub garden would be even louder.
- (x) Mr Thomas rejected the remark as the video clips were taken from an external camera and it was unknown what could be heard from inside the surrounding premises.
- (xi) The Sub Committee did not take the video evidence into account on the basis that they were unable to link the behaviour with the operation of the premises
- (xii) South Street has a taxi rank, bus stop and kebab shop. Other premises in the area are open until 02:00 hrs and beyond.
- (xiii) There had been no representations made by any of the Responsible Authorities, including the Police.
- (xiv) The applicant wanted to extend the use of the garden area to minimise customers' use of the pavement at the front of the premises on South Street.
- (xv) A member of staff will remain the garden from 23:00 hrs and a log book will be maintained.
- (xvi) The applicant had discussed the application with Dover District Council's Environmental Protection Officer prior to making the application. An amendment to the condition regarding the garden use was suggested, rather than it be removed.

It was suggested that

'The use of the garden area beyond 23:00 hrs shall be on a trial basis for a period of 6 months from the date of the grant of the variation. Should complaints be received regarding the extra period of garden use, that are substantiated, or if there is a witnessing of noise nuisance by authorised officers of the Local Authority, then, upon notification from the relevant authority the condition (i) above will revert back to the previous state on the 1st day after a period of 6 months from the date of change. No Minor Variation shall be required to the licence by the licence holder for this change to have effect and the licence shall be re-issued forthwith and without charge.

- (xvii) There had been 16 occasions during the previous 2 years where Temporary Event Notices (TENs) were utilised. Under the TENs, the garden had been open until 01:00 hrs and there was a relaxation on re-admissions to the premises. There had been no complaints made regarding these events.

- (xviii) If the requirement for door staff on Thursday was removed as part of the application, and having spoken with the police, the applicant proposed the following additional condition:

‘When there is entertainment held at the premises on a Thursday a minimum of 1 door supervisor must be on duty at the front of the premises to control access/egress of patrons.’

- (xix) The applicant wishes to remove the condition which restricts the use of glassware to polycarbonate or similar from 22:00 hrs until close on Thursdays, Fridays and Saturdays. Customers are already asked to leave their glassware inside the premises if they are going out to the front of the premises and it was thought to be unnecessary by the applicant. The Sub Committee did not accept this.

In reaching its findings the sub-committee took into account the following:

- (i) Dover District Council 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: GRANT in part the application for the variation to the premises licence in respect of Walmer Castle Public House, South Street, Deal as follows:

- (a) The following conditions be amended and applied as follows:
 - (i) No entry/ re-entry into the premises after 02:00 hrs.
 - (ii) Extend the terminal hour for the use of the garden until 23:00 hrs Sunday – Thursday and 00:00 hrs Friday – Saturday.
 - (i) From 22:00 hrs until close of trade on Friday and Saturday evenings there shall be at least one door supervisor on duty at the premises to control access/egress of patrons.
- (b) With the addition of the following conditions to be applied:
 - (i) When there is entertainment held at the premises on a Thursday a minimum of 1 door supervisor must be on duty at the front of the premises from 22:00 hrs until close of trade to control access/egress of patrons.

The use of the garden area beyond 23:00 hrs shall be on a trial basis for a period of 6 months from the date of the grant of the variation. Should complaints be received regarding the extra period of garden use, that are substantiated, or if there is a witnessing of noise nuisance

by authorised officers of the Local Authority, then, upon notification from the relevant authority the condition listed at (a)(ii) above will revert back to the previous state on the 1st day after a period of 6 months from the date of change. No Minor Variation shall be required to the licence by the licence holder for this change to have effect and the licence shall be re-issued forthwith and without charge.

The meeting ended at 11.19 am.