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23 February 2021

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **LICENSING COMMITTEE** will be held as a Remote Meeting - Teams Live Event on Wednesday 3 March 2021 at 5.00 pm when the following business will be transacted.

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

Yours sincerely

A handwritten signature in black ink, appearing to be 'Nicky', written over a white background.

Chief Executive

Licensing Committee Membership:

T A Bond(Chairman)
O C de R Richardson (Vice-Chairman)
M Bates
D G Beaney
P M Brivio
D G Cronk
D Hannent
J P Haste
P D Jull
L A Keen
S C Manion
K Mills
D P Murphy
R S Walkden
C D Zosseder

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 21 October 2020.

5 **MINUTES OF SUB-COMMITTEE MEETINGS** (Pages 6 - 14)

To receive the attached minutes of the meetings of the Licensing Sub-Committees held on 18 December 2020, 28 January 2021, and 16 February 2021.

Access to Meetings and Information

- The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 have changed the basis of the public's legal right to attend meetings. This means the public now has the right to hear Councillors attending the remote committee meeting that would normally be open to the public to attend in person. It is the intention of Dover District Council to also offer the opportunity for members of the public to view, as well as hear, remote meetings where possible. You may remain present throughout them except during the consideration of exempt or confidential information.
- 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 as a Teams Live Events remote meeting on Wednesday, 21 October 2020 at 5.00 pm

Present:

Chairman: Councillor T A Bond

Councillors: O C de R Richardson
M Bates
P M Brivio
D G Cronk
D Hannent
J P Haste
P D Jull
S C Manion
K Mills
C D Zosseder

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

9 APOLOGIES

Apologies for absence were received from Councillors D G Beaney and D P Murphy.

10 APPOINTMENT OF SUBSTITUTE MEMBERS

There were no substitute Members appointed.

11 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

12 MINUTES

The Minutes of the meeting held on 31 July 2020 were approved as a correct record and signed by the Chairman.

13 FEES AND CHARGES 2021/22

Members considered the report of the Head of Regulatory Services which set out the fees and charges for 2021/22 relevant to the Licensing Authority. Members were reminded that the Licensing Act fees were set by Government and not by the Council and that the fees set under the Gambling Act were capped by Government and set within the guidelines.

RESOLVED: (a) That the Fees and Charges for 2021/22 as set out in Appendix 3 be approved.

(b) That Members approved 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 approved the general principle that, unless the fee is set by statute, licensing fees will be set on a cost recovery basis.
- (d) That the Head of Regulatory Services be authorised to adopt fees at, or close to government directed levels without the need for further reporting, in cases where the Council is awaiting Government guidance and it has not been possible to set a fee level at this stage.
- (e) That the Head of Regulatory Services be authorised in consultation with the Strategic Director of Corporate Resources to make minor adjustments to the fees and charges as necessary.

The meeting ended at 5.10 pm.

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held as a Teams Live Event on Friday, 18 December 2020 at 10.00 am.

Present:

Sub-Committee:

Chairman: Councillor P M Brivio

Councillors: J P Haste
R S Walkden

Officers:

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

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2020/00001).

1 APOLOGIES FOR ABSENCE

There were no apologies for absence.

2 APPOINTMENT OF SUBSTITUTE MEMBERS

There were no substitute Members appointed.

3 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

4 LICENSING ACT 2003 - APPLICATION FOR THE GRANT OF A PREMISES LICENCE IN RESPECT OF 119 HIGH STREET, DEAL

The sub-committee considered an application from Mr A and Mrs S Kirkwood in respect of 119 High Street, Deal. The application was for the grant of a premises licence as follows

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

Every day	09:00 – 22:00 hrs
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On the basis of the representations of the applicants and other persons, the sub-committee found the following facts to be established:

- (i) The application was for a ground floor retail shop with high street frontage retail space, rear seating area and garden seating, trading as a deli/bistro with on and off sales of alcohol. The produce would be of high-quality, with the intention to offer food and drink tasting evenings with guest chefs. There will be on average twelve covers at any one time with a maximum of twenty if hosting a wine tasting event. The applicants stressed this was not to be primarily a drinking establishment.

- (ii) The applicants were experienced retailers and premises licence holders and had traded in Deal since 2008. They were the owners and co-founders of the Dining Club in 2008 and Victuals & Co from 2013 to 2018. Both premises were situated in a mixed residential/commercial area with no reported complaints made to the authority in relation to the licensing objectives and these premises.
- (iii) Three representations were received objecting to the application. Mr Baines and Mr & Mrs Cullingworth were present at the Hearing. The sub-committee had considered the representation submitted by Mr R Donnell who was not present at the Hearing. There were no representations made by any of the Responsible Authorities, including the police.
- (iv) The licensing objectives cited to be undermined by the objectors were Prevention of Public Nuisance and Prevention of Crime and Disorder. The objectors were concerned that an additional licensed premises on the High Street, which already had a high concentration of licensed premises, would increase anti-social behaviour and noise nuisance for residents.
- (v) There were concerns that there was no provision for smokers, and this would cause a public nuisance for the neighbouring residents. The applicants advised there would be no smoking at the premises which included the garden and that they would ask guests and patrons to use suitable bins on the High Street. They advised this approach had been successful with customers at their other premises and that they were willing to comply with their request.
- (vi) Mr Baines and Mr & Mrs Cullingworth were direct neighbours either side of the premises. Mr Baines submitted photos to show the proximity of the garden, kitchen and outside toilet to his property. They raised issues concerning the use of the garden under previous proprietors and stated a planning condition had been breached. The planning consent required a barrier to be in situ in the garden to protect the residential amenity of the neighbouring properties. It was suggested by the Other Parties that this barrier should be reinstated if permission be granted to prevent overuse. The applicants advised they would only use the area of the garden as per the planning decision in 2007.
- (vii) The sub-committee accepted that there may have been some planning issues previously, but no issues were reported to the authority regarding licensing and the applicants were not the previous licence holders in any event.
- (viii) Mr Baines said that the consumption of alcohol in the garden from 09:00 hrs – 22:00 hrs would create considerable noise, odours (from smokers) and light pollution in the evenings. Mr Baines requested that if the premises licence was to be granted that a condition preventing the consumption of alcohol outside be added to the licence. The applicants advised that they were not intending to use the garden beyond 17:30 hrs.
- (ix) Mr Cullingworth raised safety concerns given the speed and volume of traffic on the High Street and the proximity of the entrance/exit of the premises to the road and cited the Amended Guidance issued under Section 182 of the Licensing Act 2003. The Contentious and Regulatory Lawyer sought further clarification that this was with regard to paragraphs 2.1 – 2.9 of the Act which also included reference to the objective of Public Safety. The safety concerns

raised had been considered by the sub-committee and were not accepted as undermining any objective.

- (x) The sub-committee found that many of the concerns that had been raised by objectors had been addressed by the applicants. There was no cumulative impact policy in place to be applied and there had been no evidence put forward to suspect that this premises with these applicants should not be licensed.

In reaching its findings the sub-committee considered 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) Article 6 of the Human Rights Act.
- (iv) Section 17 of the Crime and Disorder Act 1998.

RESOLVED: (i) GRANT the application for a premises licence in respect of 119 High Street, Deal, with the proposed conditions as per the operating schedule as follows:

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

<u>Every day</u>	<u>09:00 – 22:00 hrs</u>
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Save that the patio area, as per the application, cannot be used for the sale or consumption of alcohol after 17:30 hrs on any day.

- (ii) Signage to be placed in the patio area to inform patrons and guests that use of the garden is not permissible. The patio is not to be used until the signs are displayed.
- (iii) The sub-committee suggests consideration be given to re-instating the physical barrier that objectors had talked of, to ensure garden cannot be used.

The meeting ended at 11.28 am.

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Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held as a Teams Live Event on Thursday, 28 January 2021 at 10.00 am.

Present:

Sub-Committee:

Chairman: Councillor D P Murphy

Councillors: M Bates
O C de R Richardson

Officers:

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

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2021/0001V).

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.

8 LICENSING ACT 2003 - APPLICATION TO VARY A PREMISES LICENCE AT PRESTON COURT, COURT LANE, PRESTON

The Sub-committee considered an application from The Steam Museum Trust in respect of Preston Court, Court Lane, Preston. The application sought to extend the licensable area to include a bar and marquee (to be used for events between 1 May – 30 September each year) and increase the times for the current licensable area as follows:

Supply of Alcohol (for consumption ON the premises)

Every day	09:00 – 00:00 hrs
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Live Music and Recorded Music and Facilities for Dancing

Every day	09:00 – 00:00 hrs
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The application also sought to remove the following condition from the premises licence

'All music and alcohol sales to be between the hours of 09:00 and 23:00 hrs'.

On the basis of the representations of the applicant, their representative, the police as the Responsible Authority, and Other Persons, the Sub-Committee found the following facts to be established:

- (i) The application made by The Steam Museum Trust and represented at the Hearing by Anna List Brain (venue manager and operator) sought to vary the premises licence to amend the hours for alcohol sales and live and recorded music; to add to the licensable area to include a bar and marquee for the sale of alcohol (to be used for events between 1 May – 30 September each year); and to remove the condition on the current licence that prohibited music and alcohol sales after 23:00 hrs.
- (ii) Eight representations were received from Other Persons objecting to the application and all cited the licensing objective, Prevention of Public Nuisance in their representations. Ms Jill Matthews was in attendance at the Hearing. Kent Fire and Rescue Service (KFRS) had objected as the Responsible Authority, citing the licensing objective Prevention of Public Safety and Daniel Pott and Kirsty Ferguson were in attendance.
- (iii) The representations made by the Other Persons and as included in the agenda papers were considered by the Sub-Committee. Ms Matthews stated that the application had not been advertised correctly and had informed close neighbours of the application herself. The Licensing Team Leader advised that the requirements of the Licensing Act to advertise such applications had been satisfied and a site visit carried out to ensure the required notice was correctly displayed.
- (iv) Preston Court through Peacock Events had been operating as a wedding venue since 2010 and The Steam Museum Trustees had held the licence since this time. A marquee had been used for events since 2016 and were permitted under Temporary Event Notices (TENs). The applicant advised that approximately 60 TENs had been utilised in that time and the application for the inclusion of the marquee on the application was to lessen the administrative burden of the TEN application process and not increase the number of events planned.
- (v) Ms Matthews stated the nearby residents were not notified in advance when TENs had been utilised for the use of the marquee. The Licensing Team Leader advised that the legislation only required the police and Environmental Health to be notified so as to make any objection.
- (vi) Mr Pott (KFRS) advised that since representation was made another visit to the venue with the Risk Assessment Team was carried out and the reasons given in the objection were still valid. The access road was not adequate and water facilities were not in place at the time of the visit. The Fire Authority were a statutory consultee on planning and building regulation consents and would comment accordingly if an application for the erection of the marquee for the months of May to September was submitted.

- (vii) Ms List Brain advised that the marquee would only be erected per event unless there were a group of events close together – it would not be in place for the entire period of May - September.
- (viii) Ms List Brain asked to share a new Fire Access Plan that sought to meet the requirements of the KFRS. The plan was accepted by all parties present and displayed at the Hearing. Following questions from Members Mr Pott confirmed that if the actions as set out in the new plan were implemented then KFRS would be satisfied. They would however need to inspect the works as and when done and so at that present time the objection still stood.
- (ix) No formal complaints had been made to the licensing authority since 2017 and Environmental Health since 2014. Ms Matthews advised that complaints regarding noise from the venue, be that from the glamping site, wedding venue or marquee, were dealt with directly via the venue by way of a phone call although neither she nor Ms Matthews were aware of how many calls made were as a direct result of noise from the marquee. The complaints were always acted upon positively and in a timely manner by either Ms List Brain or her sister. Ms Matthews did not contact Environmental Health regarding the noise as residents had called in the past and officers were not available to attend to witness the noise. Ms List Brain confirmed that the telephone number was advertised on the venue's website and residents could call at any time if they were experiencing problems as a result of an event at the venue. The Sub-Committee noted the difference between a statutory nuisance and a public nuisance that affects residents in a rural area.
- (x) Ms List Brain confirmed there was no intention to run events simultaneously at the venue and the marquee was required to offer a different style of wedding to couples. The additional hour sought on the licence for the sale of alcohol was only to be utilised when requested by couples which was done very rarely and was not intended to sell alcohol all day, every day. It was there as an option and residents would see no changes to the way the venue operated.
- (xi) Ms Mathews stated that whilst Peacock Events had advised that they planned to only continue with a limited number of wedding events, it was the Steam Museum Trust who have the licence and that granting the variation to the licence, would in fact permit various events to be held in a marquee more frequently.
- (xii) The Sub-Committee considered all representations made and assured all that they do not look merely at the number of representations, but the issues raised and thanked all parties for their clarity.
- (xiii) Kent Fire and Rescue Service had expressed clear concerns regarding the access and water facilities. The Sub-Committee noted that KFRS had agreed with the applicant what was required and as shown in the Fire Access Plan presented at the Hearing. Given that KFRSs concerns had been alleviated and their confirmation that if the plan proposed were to be undertaken, then they would have no objection to the use of the marquee.
- (xiv) Planning consent was not a matter for the licensing Sub-Committee to determine and no assumption on any necessary planning permissions could be taken from the decision of the Sub-Committee.

- (xv) In summary, the Sub-Committee found the applicant to be aware of her obligations to the licensing objectives. The applicant sought to lessen the burden of TENs rather than extend the business activities. It was clear that there was some public nuisance caused to residents and that extending the licensable hours, given the applicant had indicated how infrequently to date such an extension was required, the Sub-Committee did not consider it necessary to extend any hours as sought in the application.

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 in particular the guidance given under Section 182 of the Act
- (iii) Article 6 of the Human Right Act (Right to a fair trial)
- (iv) Section 17 of the Crime and Disorder act 1998 (Duty to consider crime and disorder implications).

RESOLVED: GRANT the addition of the marquee and additional bar in the licensable area between the period of 1 May – 30 September as follows:

- (a) Events will be limited to 15 during that period and;
- (b) Notification must be provided in writing (including by email) to both Dover District Council and Preston Parish Council 7 days prior to an event;
- (c) The marquee cannot be utilised as a licensed premise until the requirements of Kent Fire and Rescue Service are met and that it is done in accordance with any necessary planning or building regulations or permissions as may be required as per the plan submitted;
- (d) Confirmation of point (c) above to be presented to Dover District Council's licensing team before the licence can take effect.

The meeting ended at 12.13 pm.

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Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held as a Teams Live Event on Tuesday, 16 February 2021 at 10.00 am.

Present:

Sub-Committee:

Chairman: Councillor D P Murphy

Councillors: M Bates
O C de R Richardson

Officers:

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

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2021/0002).

9 APOLOGIES FOR ABSENCE

There were no apologies for absence.

10 APPOINTMENT OF SUBSTITUTE MEMBERS

There were no substitute members appointed.

11 DECLARATIONS OF INTEREST

There were no declarations of interest made.

12 EXCLUSION OF THE PRESS AND PUBLIC

It was moved by Councillor O C de R Richardson, duly seconded and

RESOLVED: That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the remainder of the business on the grounds that the items to be considered involved the likely disclosure of exempt information as defined in paragraph 1 of Part I of Schedule 12A of the Act.

13 LICENSING ACT 2003 - PERSONAL LICENCE HOLDER IN RECEIPT OF CONVICTIONS SINCE THE ISSUE OF THE LICENCE

The Sub-Committee considered the report of the Licensing Team Leader containing details of a Personal Licence holder, licensed by Dover District Council as the licensing authority, and who had been convicted of a relevant offence (as defined in Schedule 4 of the Licensing Act 2003). In accordance with Section 132A(4) of the Licensing Act 2003 a Notice was served. The Licensing Sub-Committee was to determine what action, if any, should be taken in regard to the Personal Licence.

The Sub-Committee considered the representations of the applicant and their supporting person and took into account the relevant legislation, regulations and policy as follows:

- (i) The Licensing Act 2003 and in particular guidance given under Section 182 of the Act.
- (ii) Section 132A of the Licensing Act 2003.
- (iii) Dover District Council's Licensing Policy.
- (iv) Article 6 of the Human Rights Act (Right to a fair trial).
- (v) Section 17 of the Crime and Disorder Act 1998 (Duty to consider crime and disorder implications).

RESOLVED: That the Personal Licence be revoked.

The meeting ended at 11.15 am.