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Democratic Services
White Cliffs Business Park
Dover
Kent CT16 3PJ

Telephone: (01304) 821199
Fax: (01304) 872452
DX: 6312
Minicom: (01304) 820115
Website: www.dover.gov.uk
e-mail: democraticservices@dover.gov.uk

21 February 2022

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 2 March 2022 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, Democratic Services Officer 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)	J P Haste
P D Jull (Vice-Chairman)	M F Hibbert
M Bates	S C Manion
D G Beaney	K Mills
P M Brivio	D P Murphy
N J Collor	R S Walkden
D G Cronk	C D Zosseder
D Hannent	

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** (Page 4)

To confirm the attached Minutes of the meeting of the Committee held on 26 January 2022.

5 **MINUTES OF SUB-COMMITTEE MEETINGS** (Pages 5 - 15)

To receive the attached minutes of the meetings of the Licensing Sub-Committees held on 11 January 2022 and 21 January 2022.

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 step free access via the Council Chamber entrance and an accessible 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, democraticservices@dover.gov.uk, 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, 26 January 2022 at 5.30 pm.

Present:

Chairman: Councillor T A Bond

Councillors: M Bates
N J Collor
D G Cronk
D Hannent
M F Hibbert
P D Jull
K Mills
D P Murphy
R S Walkden
C D Zosseder

Officers: Democratic Services Officer

15 APOLOGIES

There were no apologies for absence received from Members.

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 20 October 2021 were approved as a correct record for signing by the Chairman.

19 MINUTES OF SUB-COMMITTEE MEETINGS

The Minutes of the meeting of the Licensing Sub-Committee held on 7 September 2021 were received and noted.

The meeting ended at 5.31 pm.

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at Deal Town Hall, Deal on Tuesday, 11 January 2022 at 11.00 am.

Present:

Sub-Committee:

Chairman: Councillor D P Murphy

Councillors: M F Hibbert
K Mills (as substitute for Councillor M Bates)

Officers:

Legal Adviser: Contentious and Regulatory Lawyer
Licensing Officers: Licensing Manager
Licensing Enforcement Officer
Administrator: Administration Assistant
Democratic Services Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2022/0002A).

32 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor M Bates.

33 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor K Mills was in attendance as substitute for Councillor M Bates.

34 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

35 LICENSING ACT 2003 - APPLICATION FOR THE GRANT OF A PREMISES LICENCE IN RESPECT OF BIGGIN OFF LICENCE, 52 BIGGIN STREET, DOVER

The Sub-Committee considered an application for the grant of a Premises Licence for Biggin Off Licence, 52 Biggin Street, Dover for the following

Supply of Alcohol (for consumption OFF the premises)

Sunday – Thursday	08:00 – 23:00 hrs
Friday – Saturday	08:00 – 02:00 hrs

On the basis of the representations of the applicant, their representative and the Responsible Authorities, the Sub-Committee found the following facts to be established:

- (i) The application for Biggin Off Licence was for the grant of a premises licence for the supply of alcohol off the premises, from 08:00 hrs to 23:00 hrs on Sunday to Thursday and 08:00 hrs to 02:00 hrs on Friday and Saturday. The

premises was a general convenience store and off licence in Dover town centre.

- (ii) Two representations objecting to the application were received from the Responsible Authorities, Kent Police and Trading Standards. Kent Police cited all four licensing objectives as being undermined in their representation and said the premises was a source of crime and disorder and public nuisance within the night-time economy. Trading Standards made their representation under the Prevention of Crime and Disorder.
- (iii) To help understand who was responsible at the premises when the incidents took place that Kent Police and Trading Standards referred to in their representations, the Licensing Manager provided with the following details to assist:
 - 26 May 2021 – Biggin Off Licence Ltd granted a premises licence for Biggin Off Licence
 - 26 May 2021 – variation application received from Biggin Off Licence to increase the hours for alcohol sales
 - 31 August 2021 – variation application to increase the hours for alcohol sales and granted at hearing
 - 15 October 2021 – premises licence surrendered
 - 15 November 2021 – current application received
- (iv) Mr Mogtabapana told the Sub-Committee he had taken over the lease of Biggin Off Licence in August 2021 and took over the management of the premises in October 2021 although the exact dates could not be established. It was noted that this premises licence application was dated 10 November 2021. The previous licence holder had surrendered the licence in October 2021.
- (v) The Licensing Enforcement Officer carried out an inspection of the premises on 15 October 2021 and found that whilst beers were in the fridge, they were covered over, and wines and spirits were in the storeroom.
- (vi) In their representation, Kent Police said the area where the premises was located was frequented by many at night who were visiting local night-time venues. Within the vicinity of the premises there were several pubs, eight off-licences within a 250-metre radius, and a bingo hall. The premises was in the town centre where there were often issues with drunkenness and rowdy behaviour at night that led to fights aggravated by alcohol. Because of these issues they were opposed to the premises being open until 02:00 hrs in what was also a residential area. They had additional concerns regarding the operating of the business and how the applicant would ensure the conditions on licence would be adhered to.
- (vii) Kent Police had received reports from residents living above the premises complaining that people were going into the premises in the early hours to purchase alcohol and were gathering outside the premises. At the hearing Kent Police requested a reduction in hours, with the terminal hour of 23:00 hrs on Fridays and Saturdays to be in-line with other off-licences within 250 metres of the premises. If the Sub-Committee was minded to grant the application as requested, Kent Police wanted to impose a condition to the

licence that would require a Security Industry Authority (SIA) door supervisor on the premises from 22:00 hrs to 02:00 hrs.

- (viii) Mr Gordon queried why Kent Police had not objected to the original grant of a premises licence by another applicant in May 2021 whereby the licence application requested the same terminal hour. Kent Police replied advising that there hadn't previously been an off-licence open until that time and that they had to ensure the premises and public were kept safe.
- (ix) Having discussed the concerns of Kent Police with the applicant, Mr Gordon advised that a reduction in the terminal hour to 23:00 hrs would be acceptable although Mr Mogtabapana would ideally want to stay open until 02:00 hrs and with additional staff.
- (x) Mr Jewell, Principal Trading Standards Officer, advised the Sub-Committee that Trading Standards' concerns were with the premises, not the applicant, and the sale of illegal tobacco products under the previous licence holder.
- (xi) It could not be established when the incidents that were cited in the intelligence report provided to Trading Standards on 24 November 2021 took place. The details had been passed to them from Kent Police and Trading Standards had not visited the premises.
- (xii) Both Trading Standards and Kent Police expressed concern that the member of staff who was connected to the illegal sales was still known to be working at the premises. Mr Mogtabapana had not been aware of the issues and whilst the staff member was still employed at the premises, he would be accompanied at all times by the new Designated Premises Supervisor (DPS), Mr Bahman Abdullah, who had recently been trained by Mr Gordon and whose details would be provided to the Licensing authority after the hearing.
- (xiii) Mr Mogtabapana accepted the concerns raised and assured the Sub-Committee there would be stronger management of the premises than there had been under the previous owners/management and that he had no intention to continue with the sale of the paraphernalia such as grinders which were associated with drug use.
- (xiv) He would comply with the conditions on the licence and all staff would be fully trained to uphold the licensing objectives. The CCTV on the premises was now working and Mr Mogtabapana was able to view this on his mobile phone. This was the first retail business that he had owned, he had no previous experience of running this type of business, but he had recently received a level 2 Award for Personal Licence Holders (APLH) and trained by Mr Gordon.
- (xv) The Sub-Committee advised it had considered all of the representations from the Responsible Authorities and in particular the police's reference to incidents but in its opinion, these could not be solely attributed to this premises nor this applicant. It further noted that there were no representations from any members of the public.
- (xvi) The Sub-Committee noted that whilst there were issues with the night-time economy there was no evidence that this applicant was responsible for

adversely affecting that, nor was there any cumulative impact policy in place for that area.

- (xvii) The issues raised by both Kent Police and Trading Standards related to when the previous licence holder was responsible for the premises and there had been no review called and no formal actions taken. There was some confusion over when the applicant had actually taken over running of the premises but it was accepted that up until 15 October 2021 the premises licence was held by the previous licensee.
- (xviii) It was noted that the sale of drug associated paraphernalia was not illegal and although e-cigarette items had been seized, these were not directly related to the Licensing Act 2003.
- (xix) The applicant had agreed to the additional staff if the licence were permitted until 02:00 hrs and had stated he was prepared to reduce the hours until 23:00 hrs if required to do so. It also noted that a new DPS would be in place.
- (xx) The Sub-Committee found no evidence that the application nor the applicant would adversely impact the night-time economy. However, they were mindful that the applicant had no previous experience of running a licensed premises and felt operating late at night, was something that would require more experience.

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) Section 17 of the Crime and Disorder Act 1998
- (iv) Article 6 of the Human Right Act

RESOLVED: That the application for a Premises Licence for Biggin Off Licence, 52 Biggin Street, Dover be GRANTED as follows

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

Every day	08:00 – 23:00 hrs
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- (b) With the conditions as per the Operating Schedule save for the following amendments to be made

- (i) Training/Authorisation: (b) Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 12 weeks, with the date and time of the verbal reinforcement/refresher training to be documented. All new staff to be trained at the outset of starting work.

- (ii) That CCTV footage will be stored for a minimum of 28 days.

The meeting ended at 12.52 pm.

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Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Friday, 21 January 2022 at 10.03 am.

Present:

Sub-Committee:

Chairman: Councillor T A Bond

Councillors: P D Jull
D P Murphy (as substitute for Councillor D G Cronk)

Officers:

Legal Adviser: Contentious and Regulatory Lawyer
Regulatory Lawyer

Licensing Officers: Head of Regulatory Services
Licensing Manager
Licensing Enforcement Officer
Administration Assistant

Administrator: Democratic Services Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2022/0001R).

36 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor D G Cronk.

37 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor D P Murphy was in attendance as substitute for Councillor D G Cronk.

38 DECLARATIONS OF INTEREST

Councillor D P Murphy declared a Voluntary Announcement of Other Interests in Agenda Item 4 by reason that as a Cabinet member of Kent County Council (KCC), one of the objectors to the application, Erin Bell, was known to him as a KCC employee although he did not know her personally.

39 LICENSING ACT 2003 - APPLICATION FOR THE REVIEW OF A PREMISES LICENCE - LAVA LOUNGE BAR, 31 BIGGIN STREET, DOVER

The Sub-Committee considered an application for the review of a Premise Licence in respect of Lava Lounge Bar, made under Section 51 of the Licensing Act 2003 and requested by PC D Rolfe (Police Licensing Enforcement Officer), on behalf of Kent Police, on the grounds that the licensing objectives of the Prevention of Crime and Disorder and Public Safety were not being promoted.

Under regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, the hearing was to be held in public. However, the licensing authority may exclude the public from all or part of a hearing where it considered that the public interest in so doing outweighed the public interest in the hearing, or that part of the hearing,

taking place in public. Part of the hearing would consist of viewing body worn camera and CCTV footage that would contain personal data of individuals. Due to the rights and freedoms of those data subjects, and the Council's obligations under data protection legislation, such footage was necessary for the Sub-Committee's determinations and therefore during the playing of those footages the hearing was not in public.

On the basis of the representations of the Responsible Authority – Kent Police (the applicants), representatives of Lava Lounge Bar and other persons, the Sub-Committee found the following facts to be established:

- (i) That under Section 52 of the Licensing Act 2003, PC Rolfe, on behalf of Kent Police as the Responsible Authority, submitted a review application for Lava Lounge Bar, Dover and sought the revocation of the premises licence.
- (ii) It was stated by Kent Police that the venue was a generator of a high level of crime and disorder, and it was the belief of Kent Police that the premises' management had failed to promote the licensing objectives of the Prevention of Crime and Disorder and Public Safety despite on-going partnership working between Kent Police Licensing, Dover District Council and the premises.
- (iii) The application cited an incident at the premises on 21 November 2021 which resulted in a large disturbance.
- (iv) During the consultation period one representation was received from Erin Bell of Dover Youth Hub. Ms Bell had been made aware that young women, as young as 14, had been served alcohol at the Lava Lounge Bar and made her representation under the licensing objective Protection of Children from Harm.
- (v) CCTV footage from the premises, body worn cameras and DDC CCTV of the incident on 21 November 2021 was shown at the meeting.
- (vi) At 02:23 hrs CCTV footage from outside the premises showed a female patron carried out from the premises and placed on the pavement outside the premises but away from the barriered area at the front of the premises. The footage showed both door supervisors present.
- (vii) Members were advised by Ms Tupper-Price that the female had consumed two drinks in the premises and that she had been told by the female's boyfriend, who had carried her out of the premises, that the alleged fit was brought on by the mix of alcohol and medication.
- (viii) Door supervisors radioed the incident through to DDC's CCTV who deployed South East Coast Ambulance Service to the scene (SECAMB) and arrived at 03:00 hrs.
- (ix) At 02:30 hrs CCTV footage from inside the premises showed an altercation and a member of door staff immediately intervened.
- (x) At 02:32 hrs CCTV footage from outside the premises showed people being removed from the premises. Door supervisors alerted DDC's CCTV of a fight at the premises.

- (xi) Footage from DDC's CCTV cameras offered a wider view of the precinct and premises where Members were able to witness the female on the pavement being cared for and numerous fights outside the premises and precinct. PC Rolfe advised there were approximately 30 people in the vicinity, and this increased. At 02:36 hrs two police officers arrived at the scene and called for back-up.
- (xii) From 02:36 hrs to 02:40 hrs Members viewed the police officer's body-worn camera and audio footage. This showed groups of people in the precinct involved in various fights and it took approximately ten minutes to disperse people from the area.
- (xiii) PC Rolfe stated the premises was a high generator of calls to Kent Police. Since the venue opened June 2019, there had been 114 calls to Kent Police and 70 recorded crimes at the premises. PC Rolfe advised these calls were made by various sources including staff at the premises, DDC's CCTV, Dover Partnership Against Crime (DPAC) and members of the public and that Lava Lounge Bar was the highest generator of calls to Kent Police in the town.
- (xiv) Staff at the premises had been encouraged to report all incidents to the police. Miss Tupper-Price was aware of calls made to the police regarding the off-licence opposite the premises that was open until 02:00 hrs and whose customers sat on the bench directly outside Lava Lounge.
- (xv) Members asked for details of the recorded crimes referred to. PC Rolfe was able to provide some information although details could not be provided. These crimes included affray, GBH and ABH.
- (xvi) It was felt by the Sub-Committee that insufficient evidence was provided regarding underage drinking at the premises. The police had received a report, but no evidence was found when a visit took place. Miss Tupper-Price advised that IDs were checked at the door by staff and they did not serve anyone underage.
- (xvii) It was recognised by both Lava Lounge Bar and PC Rolfe that there had been regular communication between both parties from when the premises opened in June 2019. Lava Lounge Bar had attended all multi-agency meetings and other arranged meetings held during this time for licensed premises in the town. Email correspondence from Lava Lounge to PC Rolfe was provided as evidence by Lava Lounge to support this. It was recognised by both parties that communications ceased when the review application was made.
- (xviii) Following the re-opening of the premises and the lifting of Covid restrictions in July 2020, and following a spike in incidents, multi-agency meetings were arranged by PC Rolfe to work with the premises to discuss their concerns and provide support to the venue.
- (xix) The incident on 21 November 2021 followed two previous multi-agency meetings.

- (xx) It was raised by PC Rolfe that Mr Ben Dowle, who was the Premises Licence Holder and Designated Premises Supervisor, had not attended these multi-agency meetings. Miss Tupper-Price stated his licence did not require him to attend face-to-face meetings and that she had attended instead. The premises was in the process of changing their Designated Premises Supervisor.
- (xxi) Miss Tupper-Price advised that noise and nuisance issues were discussed at the multi-agency meetings and that issues regarding fighting and spiking were not discussed or addressed. There was however mention of the issue of fights in some of the emails.
- (xxii) The suggested measures that had been made by the police and other agencies had been implemented at the premises. These included: joining DPAC radio, toilet checks, the closing of doors, staggering patrons' entrance to the premises, the calling of last orders at least one hour prior to closing and allowing patrons 15 minutes after closing to disperse.
- (xxiii) Following the implementation of these measures and following the multi-agency meetings the premises was unaware it was considered high-risk or that there were outstanding issues that needed addressing. They were only made aware of these issues upon receipt of the review application.
- (xxiv) Members put questions to Kent Police regarding the incident and footage, and the measures they would expect to be in place. PC Rolfe expected venues to be well managed and to have sufficient provisions in place to manage what happened inside a venue, such as the time last orders were called and to manage the capacity of the venue.
- (xxv) On the night of the incident there were two SIA door supervisors on duty which was required as a condition of the licence. Staff from the premises radioed other premises in the town and asked for assistance.
- (xxvi) Members were advised that it was normal at weekends for there to be three door supervisors on duty and one on weekdays which was more than currently required on their licence. On the night of the incident one of the door supervisors was taking part in a boxing match in Folkestone. Miss Tupper-Price advised that people from the match returned to Dover and the atmosphere in the town seemed hyped.
- (xxvii) Mr P James, DDC's Licensing Enforcement Officer advised the Sub-Committee of his involvement with the premises since it had opened. He had attended some joint meetings and had exchanged emails regarding noise complaints at the premises although these complaints were dealt with by the Environmental Health team.
- (xxviii) The Licensing Manager further advised of a total of seven complaints made to the Licensing authority over a period from May 2019 to December 2021, mainly relating to noise and also drugs although no complaints had been made regarding underage drinking.
- (xxix) It was the view of the premises that there was nothing they could have done to have prevented the incident on 21 November 2021. All

measures that had been asked of them had been implemented and this was a one-off incident that could not have been prevented. If the Sub-Committee were to reduce the hours for licensable activities to 23:00 hrs, it would not be viable for the premises to remain open.

- (xxx) The Sub-Committee was of the opinion that the incident on 21 November 2021 that led to the review of the licence was a significant incident and that the review application relied upon this. Prior to the incident there had been regular and positive communication between PC Rolfe and Lava Lounge and that since the premises re-opened in July 2021 there had been few issues other than noise complaints.
- (xxxi) On the night of the incident the door supervisor acted quickly although the incidents outside the premise escalated quickly. The Sub-Committee recognised that not all those who were there or involved were patrons of Lava Lounge Bar and it was noted that other venues were open.
- (xxxii) The police provided information of 114 calls and of a number of crimes, but were unable to clarify who made those calls, the extent of the criminal acts and what the premise's involvement was in those events.
- (xxxiii) The Sub-Committee did not find sufficient verification to consider further the representation made by Erin Bell.
- (xxxiv) The Sub-Committee recognised the steps the licence holder had taken to address the issues raised with them prior to the incident and the decision being taken to remove the current Designated Premises Supervisor. They also considered that the police had actively sought to assist the venue and the effectiveness of that, prior to 21 November, was reflected in the emails and the Sub-Committee hoped that that relationship would continue
- (xxxv) It was the opinion of the Sub-Committee that to revoke the licence would be a disproportionate action as a result of the one incident, even though it was considered significant.

In reaching its findings the Sub-Committee considered the following:

- (i) Dover District Council's Licensing Policy
- (ii) The Licensing Act 2003
- (iii) Article 6 of the Human Rights Act
- (iv) Section 17 of the Crime and Disorder Act 1998

RESOLVED: That, in respect of the Premises Licence for Lava Lounge Bar, the Sub-Committee resolved to

- (a) Vary the conditions on the licence as follows

SIA

- (i) Friday and Saturday (including public holidays and seasonal variations) there will be 3 Security Industry Authority (SIA) door supervisors from 20:00 hrs until 30 minutes after closing.
- (ii) Sunday – Thursday there will be 1 SIA door supervisor from 20:00 hrs until 30 minutes after closing.

The meeting ended at 1.47 pm.