

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Tuesday, 6 July 2021 at 9.00 am.

Present:

Sub-Committee:

Chairman: Councillor D Hannent

Councillors: P M Brivio (as substitute for Councillor C D Zosseder)
N J Collor (as substitute for Councillor K Mills)

Officers:

Legal Adviser: Contentious and Regulatory Lawyer
Licensing Officer: Licensing Enforcement Officer
Administrator: Technical Support Officer - Licensing
Administration Assistant
Democratic Services Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2021/0006A).

10 APOLOGIES FOR ABSENCE

There were apologies for absence received from Councillors K Mills and C D Zosseder.

11 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillors N J Collor and P M Brivio were appointed as substitute members for Councillors K Mills and C D Zosseder respectively.

12 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

13 LICENSING ACT 2003 - APPLICATION FOR THE GRANT OF A PREMISES LICENCE IN RESPECT OF WALMER PUTTING GREEN AND PADDLING POOL REFRESHMENT AREA, MARINE ROAD, WALMER

The Sub-Committee considered an application for the grant of a premises licence from Walmer Leisure Ltd in respect of Walmer Putting Green and Paddling Pool Refreshment Area, Marine Road, Walmer. The application was for the supply of alcohol (on and off the premises), every day from 10.00 - 22.00 hours.

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

- (i) The application was for a single premises licence for the supply of alcohol (for consumption on and off the premises) every day at Walmer Putting Green and Paddling Pool Refreshment Area, Marine Road, Walmer. Whilst this was a

single premise licence application for the entire site, Plan B (appendix C of the agenda) showed the area for the proposed sale and consumption of alcohol within the paddling pool area and Plan C (appendix D of the agenda) showed the proposed area within the putting green and would be utilised when an event took place. The area in Plan C would cease to be licensed from 30 April 2022.

- (ii) The paddling pool and putting green were leased from Dover District Council by Michael Humphries of Walmer Family Leisure Ltd and who was the owner and operator of Manston Golf Centre. The putting green was due to be redeveloped in May 2022 to provide modern adventure golf on the site and hence the reason for the licence to cease in that area from 30 April 2022.
- (iii) During lease discussions with Dover District Council's Property Services Mr Humphries said it was expected that catering facilities would be provided at the premises. It was the intention to serve soft drinks, snacks and a limited range of alcohol from kiosks in the paddling pool and putting green areas. The plans showed the area where alcohol would be sold and consumed whilst the putting green was in use (area shaded in pink on the plan) and the area where events would take place during the winter months, whilst the putting green was not in use (area shaded green on the plan). This area would be utilised for events, such as outdoor cinema events, food fayres and possibly as a skating rink.
- (iv) The Contentious and Regulatory Lawyer advised all parties that the details of the lease and the events at the premises was not for the consideration of the Sub-Committee.
- (v) Members discussed with the applicant and his solicitor the use of Temporary Event Notices (TENs) for the proposed events on the putting green. The application process was thought by the applicant to be cumbersome, with 21 days' notice and a fee required for each event. The premises licence was required for every-day consumption on the site in addition to the proposed events.
- (vi) During the consultation process 50 representations were received objecting to the application. Included in those representations were objections from Councillor D P Murphy and Councillor H M Williams. The Notice of Hearing gave those party to the Hearing the opportunity for the councillors to make representations on their behalf at the Hearing. Councillor Murphy was unable to attend and so Councillor T A Bond, who had not made representation, attended the Hearing on his behalf to present his objections and spoke on behalf of Graham Bodell and Richard Soundy (a resident of Benmore). Councillor Williams had made representation and spoke at the Hearing on behalf of 20 of the objectors as shown at paragraph A.3. of the Notice of Determination. Jan Gray was present and spoke at the Hearing.
- (vii) There were no representations made by any of the Responsible Authorities, including Kent Police although Kent Police did consult with the applicant during the consultation process and the applicant amended the operating schedule to include conditions in relation to CCTV and staff training because of those discussions.
- (viii) Within the representations all of the licensing objectives were cited to be undermined. Having had sight of the objections and the local concern, the

applicant and his solicitor provided some amendments to the application (Supplementary Paper (2) of the agenda). The amendments included the suspension of the sale, supply and consumption of alcohol during the months of May, June, July and August or at any time when the paddling pool was open. In addition, alcohol would not be permitted to be brought into the paddling pool area from the putting green.

- (ix) Considering the amendment to remove the sale of alcohol from the paddling pool whilst it was open, Councillor Williams expressed her opinion that those representations with concerns for alcohol at the pool were no longer relevant. Councillor Williams went on to read from a prepared statement which is at appendix 1 of these, raising the concerns of herself and the other parties she was representing and cited the licensing objectives – Protection of Children from Harm, Prevention of Crime and Disorder and Prevention of Public Nuisance. The site was intended for use by families, and the serving of alcohol would promote the idea that family activities should involve alcohol and would turn it into a pub-type area.
- (x) With regard to the Prevention of Crime and Disorder Councillor Williams stated the off sales element of the licence would create disorder along the seafront and in the residential vicinity. The wooden shelter adjoining the putting green was a particular concern as people were known to sit in it drinking and sleeping. There were no toilet facilities within the putting green area and people would use the beach as a toilet and it would not be possible for the applicant to monitor this.
- (xi) Further concerns regarding the toilet facilities were discussed. Mr Humphries advised that the toilets within the paddling pool site were for the use of all patrons, and that it was not necessary to go through the paddling pool changing rooms to get to the toilets. These toilets were maintained by Walmer Family Leisure. Councillor Bond thought the toilet facilities were adequate for the paddling pool but not adequate to accommodate additional users from the putting green and the more frequent use from those consuming alcohol. It was also inappropriate for customers of the putting green to access the toilets through the paddling pool area.
- (xii) Councillor Trevor Bond, who was representing Councillor Murphy and other parties, remained concerned about the consumption of alcohol in the putting green whilst the paddling pool was open and it was paramount to protect children. The putting green was within eyesight of the paddling pool being just a few metres away. It would be tempting for parents to leave the paddling pool to purchase drinks from the putting green. The seafront was an area of quiet and to enjoy the beach and the serving of alcohol from the premises would create noise and disruption. Whilst the putting green and paddling pool promoted a healthy lifestyle, the alcohol did not.
- (xiii) Jan Gray cited details from the Health and Safety Executive that stated it was suitable to serve food in the vicinity of swimming pools although glass and other brittle items were discouraged as they were invisible in the water. The premises was located on a busy main road and would be dangerous for children with adults who had been drinking.
- (xiv) The applicant and his solicitor responded to the representations. The reaction to the application was not as expected and they currently operate a premises that has children where alcohol is served. Having considered the concerns Mr

Humphries withdrew off sales of alcohol from the application. Alcohol was ancillary to the other uses of the site. This was not a large-scale operation and it was unlikely to see people spilling out from the site onto the promenade. Drinks would be decanted into plastic receptacles and any consumption of alcohol in the paddling pool area would only be when the pool was closed. They planned to board the pool over when not in use. It was proposed to have 8 – 12 tables that would seat 32 - 48 people in each area. There would likely be 60-80 people using the putting green if full and up to 180 using the paddling pool.

- (xv) Mr Humphries was mindful that historically entry to the paddling pool had been free of charge. In order to maintain free entry and to maintain the feasibility of the site, other elements were required to be introduced to the business. The community activities on the sites would contribute towards the costs of rates, insurance, chemicals and rents. They wanted to have a business that operated for the entire year and rejuvenate the site.
- (xvi) The applicant stated that the paddling pool was for children and the putting green for older children and adults. There was a separate entrance to the putting green and a fence between the areas. The putting green customers would use the paddling pool toilets, but it had been said that they may look to erect toilets on the putting green in the future.
- (xvii) When asked how many staff would be there to manage the controls, it was said there were three now but may look to have more with one more in the pool area.
- (xviii) There was then discussion about the development proposed on the putting green. It was said to be similar to that at the paddling pool, approximately 12 feet square, with tables and chairs next to it. Consumption of alcohol would be limited to the areas highlighted.
- (xix) The Sub-Committee advised it had considered all representations received, and the points made therein, whether present or not at the Hearing. It noted that no representations had been received from Responsible Authorities.
- (xx) Councillor Williams stated that the comments in respect of the paddling pool element of the application were no longer relevant in-light of the amendments offered by the applicant. However, the Sub-Committee was of the view that the representations made still had merit and had some valid points that applied even when the bar, which was not located and operating in the paddling pool area, was in use.
- (xxi) The Sub-Committee accepted there would be 8–12 tables with seating for 32-48 persons at each area as shown in pink on plans B&C. The applicant advised that any alcohol would be dispensed and decanted into plastic receptacles. It noted the applicant's proposal to not sell alcohol in the paddling pool area between May – August inclusive or at any other time when paddling pool was open for use. The Sub-Committee noted that the applicant was not seeking off sales of alcohol now.
- (xxii) The applicant stated that planning permission had been granted for the development of the putting green area and the Sub-Committee noted that the sale of alcohol was ancillary to these proposals. The Sub-Committee

considered that the development would be beneficial to the area and welcomed it.

- (xxiii) The Sub-Committee could see no basis for the claims that the licensing of the premises would have an adverse impact in respect of anti-social behaviour in the area and considered what had been said as speculative. The applicant already operated a licensed putting green and golf facility elsewhere and was experienced in such operations.
- (xxiv) The Sub-Committee expressed concerns relating to the licensing objective Protection of Children from Harm. The proximity of alcohol being sold and consumed so close to what was a young children's facility, such as the paddling pool, would expose children to those consuming alcohol which would risk physical and moral harm. The sale and consumption of alcohol in the vicinity on a day- to- day basis risked the normalisation of that activity in what was a child safe area.
- (xxv) The Sub-Committee was also concerned by the shared use of the toilets located in the paddling pool area by patrons from the putting green who had consumed alcohol. In particular there was concern that children would be exposed to the effects and behaviour of those who have consumed alcohol and that people who had consumed alcohol would be interacting with children in an area with limited supervision or control both around pool area and within toilet facilities
- (xxvi) The applicant had provided figures that demonstrated that there would be a large volume of people using or entering the paddling pool facility. The Sub-Committee was mindful of the risks to children near water and was therefore unhappy that those responsible for children would have access to alcohol whilst required to be supervising their children.

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
- (ii) Article 6 of the Human Rights Act (Right to a fair trial)
- (iv) Section 17 of the Crime and Disorder Act 1998 (Duty to consider crime and disorder implications).

RESOLVED: In reaching its findings the Sub-Committee has decided to GRANT the application for a premises licence in respect of Walmer Putting Green and Paddling Pool Refreshment Area, Marine Road, Walmer as follows

Supply of Alcohol throughout the entire site (paddling pool and putting green areas) (for consumption ON the premises)

Every Day (save for anytime when the paddling pool is open)	10:00 – 22:00 hrs
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- (a) With conditions that
- (i) No alcohol is to be sold, supplied or consumed anywhere on the licensed premises when the paddling pool is open to the public.
 - (ii) All alcohol must be sold in non-glass containers.
 - (iii) All staff involved in the sale of alcohol to be fully trained in their responsibilities under the Licensing Act 2003 and a training record maintained and provided to police or authorised officers on request
 - (iv) CCTV as per that agreed with police, will be in operation at the premises in the form of a recordable system, capable of recording a minimum period of 28 days, and staff are to be trained in its use. Equipment must be maintained in good working order and be provided to police or authorised officers on request.
 - (v) A 'Challenge 25' policy will be adopted at the premises and all staff will be fully trained in its use. Notices to advise customers that 'Challenge 25' is in force will be prominently displayed where the supply of alcohol occurs.

The meeting ended at 12.08 pm.