

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Monday, 27 June 2022 at 3.00 pm.

Present:

Sub-Committee:

Chairman: Councillor D Hannent

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

Officers:

Legal Adviser: Principal Lawyer - Litigation and Regulatory

Licensing Officer: Licensing Manager  
Licensing Officer

Administrator: Democratic Services Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2022/0005A and NOD/2022/0006V).

1 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor C D Zosseder.

2 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor N J Collor was appointed substitute member for Councillor C D Zosseder.

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 WHITE MILLS WAKE AND AQUA PARK, ASH ROAD, SANDWICH

The Sub-Committee considered an application for the grant of a premises licence in respect of White Mills Wake and Aqua Park, Ash Road, Sandwich. The application was for:

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

Every Day	11:00 – 23:00 hrs
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The following documentary evidence and/or other information was taken into account by the Sub-Committee:

- (i) The Licensing Manager's report including, the options available to the Sub-Committee

- (ii) Application and plan from White Mills Wake and Aqua Park Limited for the grant of a premises licence (Appendix A of the agenda)
- (iii) Map of the area (Appendix B of the agenda)
- (iv) Representation from Other Persons (Appendix C of the agenda)

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

- (i) The application from White Mills Wake and Aqua Park Limited, represented at the hearing by James Bird (owner and Designated Premises Supervisor) and Wayne Cooper (owner), was for the grant of a premises licence at White Mills Wake and Aqua Park, Ash Road, Sandwich. The application sought on and off sales of alcohol for customers every day from 11:00 – 23:00 hrs.
- (ii) The premises was a purpose-built wake and aqua park resort with a single storey café/restaurant. The applicant wished to provide wines, beers and cider alongside their food offering.
- (iii) During the consultation process one representation objecting to the application was received from Other Persons citing the licensing objective of 'Public Nuisance' as being undermined. The Sub-Committee had regard to the written representation. Richard George's written representation clarified he did not object to the licence application but the period of 11:00 – 23:00 hrs, he believed this should be 12 noon – 20:00 hrs.
- (iv) There were no representations made by any of the Responsible Authorities.
- (v) The applicant explained that proposals for the site had been through the planning regime and work had commenced on site in January this year. It was said the site was to be fun for all ages (6+) including opportunities for team building, parties, family and friends. On the lake there was a 5\* state of the art cable system and the site would also offer wake boarding. Due to open on 9 July 2022.
- (vi) The business would be managed by James Bird (also the Designated Premises Supervisor) and Wayne Cooper. Their wives and families would also be part of the business, with James Bird's wife being a personal licence holder. With regard to alcohol, staff would be fully trained (and record maintained, these would be available for inspection). It was stated the Challenge 25 was in place and no proof would mean no sale.
- (vii) The Sub-Committee heard that the aim was to be a popular venue for visitors to enjoy the park and restaurant and also for the business to contribute to the local economy. It was stated there was the potential for 40 covers in the restaurant and some additional covers outside although, this would be weather dependant. As to experience, those managing the business relayed some previous experience but acknowledged this was a bigger scale.
- (viii) It was stated this venue was not intended to be a public house, this was a venue for families and visitors and the business hoped to be able to offer a meal complemented with alcohol to provide a complete service for their customers. It was hoped that the people who would come to the

café/restaurant might be for example, cyclists or those who were watching participants of the various activities as well as the participants themselves.

- (ix) It was said that the average time for activities to finish in the summer months was approximately 21:00 hrs therefore that was why the application for a premises licence was requested until 23:00 hrs so that their visitors could relax and enjoy their meal and alcohol after their activity. The Sub-Committee sought the applicant's view as to licensable hours being from 12 noon, this was agreeable with the applicant.
- (x) The Licensing Sub-Committee was told about the policies that would be in place to promote the licensing objectives and how particularly, in light of the representation, dispersal would be managed. It was said that staff would ensure that visitors leave the premises quietly. CCTV had been installed both at the counter and externally and there would be signs being displayed to remind people to leave quietly. It was explained that the business had a dispersal policy ready to be put in place and this would cover factors such as: customers leaving responsibly with staff presence, having last orders, managing large groups and ensuring they do not leave together, reminding people to leave quietly and also meeting with local residents and businesses. The applicant expressed that they want to be part of the local community for all to enjoy.
- (xi) It was queried with the applicant how large groups would be managed. The applicant stated that staff would be outside to manage dispersal.

In reaching its findings the Sub-Committee had taken 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 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: That the application for a premises licence in respect of White Mills Wake and Aqua Park, Ash Road, Sandwich be GRANTED as follows:

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

Every Day	12:00 – 23:00 hrs
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- (ii) The operating schedule at pages 29 – 30 and 37 – 40 is accepted by the Sub-Committee.

The Sub-Committee considered an application for the variation of a premises licence in respect of Saracen's Head, 1 Alfred Square, Deal CT14 6LS. The application was for removal of the following conditions set out in Annex 3 of premises licence LN/000001147:

- (i) Regulated entertainment in the form of musical events, be limited to a terminal hour of 24:00 hrs.
- (ii) The number of regulated entertainment events, in the form of musical events, shall be limited to a maximum of 6 per year.
- (iii) The Designated Premises Supervisor shall control the breakout of music such that during musical events, noise shall be inaudible at the façade of the nearest residential property.
- (iv) NO PERFORMANCE OF DANCE SHALL BE PERMITTED AT THE PREMISES.

It was noted that the applicant was not seeking to amend any of the times for the licensable activities on the current licence.

The following documentary evidence and/or other information was taken into account by the Sub-Committee:

- (i) The Licensing Manager's report including, the options available to the Sub-Committee
- (ii) The application to vary the premises licence (Appendix A of the agenda)
- (iii) The existing premises licence (Appendix B of the agenda)
- (iv) Map of the area (Appendix C of the agenda)
- (v) Correspondence between the applicant and Environmental Health (Appendix D of the agenda)
- (vi) Correspondence between the applicant and Kent Police (Appendix E of the agenda)
- (vii) Representations (Appendix F of the agenda)
- (viii) Representation from the applicant (Appendix G of the agenda)

On the basis of the representations of the applicant, their representative and other persons, the Sub-Committee found the following facts to be established.

- (i) The variation application was made by Shepherd Neame Limited, represented by Andrew Davidson at the hearing. The application sought to remove the conditions as set out in Annex 3 of the premises licence. It was stated that the applicant wished all other existing provisions and times to remain as they were currently, including, no amendment to the times for the licensable activities on the current licence. The conditions currently in Annex 3 of the licence were applied in 2005 before the deregulation measures of the Live Music Act 2012.

- (ii) During the consultation process Environmental Health objected to the variation application as had been submitted but stated their objection could be removed if the applicant accepted that “the DPS will ensure that during regulated entertainment events no nuisance will be caused to nearby residents” and further that “prominent, clear and legible notices are to be displayed on all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly”. The “no nuisance” wording was accepted by the applicant. With regard to signage, this was already provided for in Annex 2 of the premises licence. No representation was received from Environmental Health.
- (iii) During the consultation process Kent Police confirmed they had no objection to the variation for the Saracens Head subject to adding a condition around CCTV being installed at the venue. The applicant agreed to add a condition that “CCTV will be in operation with the ability to record for 28 days and that staff will be trained in how to use it”. No representation was received from Kent Police.
- (iv) Nine objections were received from other persons, all citing the licensing objective of public nuisance. The Sub-Committee had regard to and gave equal weight to those written representations and those presented at the hearing.
- (v) With respect to the written representations the concerns included: removing the maximum of six regulated entertainment events, in the form of musical events, per year; that having no limit on these events would result in the music events and dispersal having a negative impact on the local residents; there were concerns that customers leaving the premises slam car doors, talk loudly to each other and that there is often a parking problem which would be exacerbated by increased events; smokers congregating in the street and singing along; and that this was a residential square with Grade II listed properties which were unable to have double glazing therefore could not mitigate against the noise.
- (vi) Mr Shirley, supported by Mr Ambrose, attended the hearing and told the Sub-Committee that he shared a part wall with the licensed premises and there was no sound proofing in place. He stated that all four sides of the licensed premises were surrounded by residential properties, the pub was in the corner of the square and when there was a noise breakout it was contained within the square. Mr Shirley stated that the licensed premises was in a poor state of repair despite previous landlords’ efforts. In the past four years there had been three tenants.
- (vii) Mr Shirley expressed his concern that no restriction on the number of musical events, up to midnight, would have a negative impact on the neighbours. He further stated that the buildings were single glazed and there was only a single brick wall between the licensed premises and Mr Shirley’s property meaning the music transmits into his property including, vibrating through the floorboards. Mr Shirley said the music could be heard throughout his whole property. Mr Shirley explained the limits in respect of changes that could be made to the Grade II listed properties.
- (viii) Mr Shirley further told the Sub-Committee that the licensed premises had no air conditioning and was vented by propping open the doors and windows and

that there was no noise limiting equipment in the licensed premises adding to the problem.

- (ix) It was Mr Shirley's view that with young children and elderly residents in the area it was detrimental to have no limit on the number of music events. Mr Shirley expressed he was disappointed with the Environmental Health position, he felt the current wording provided a clear way to complain and for the nuisance to be measured.
- (x) Attendees were reminded that following the deregulation changes, conditions already imposed would continue for regulated entertainment but were suspended for the times of deregulation. Conditions promoting the licensing objectives could only be imposed for the deregulated period by way of review.
- (xi) With regard to the Shepherd Neame letter, Mr Shirley stated that some of the licensees had been more considerate than others however, he felt the residents needed protection from future landlords. Mr Shirley stated he had previously complained to Environmental Health and was also told to complain to the Police. Mr Shirley felt the letter did not reflect efforts to liaise directly with Shepherd Neame. He concluded his representation by saying that whilst he wished the new landlord well he felt it was unfair to ask local residents to not be protected.
- (xii) In response to the objections Mr Davidson, the current Designated Premises Supervisor, on behalf of the applicant stated that it was not intended for the licensed premises to be developed as a music venue but they wanted the option to be able to have musical events.
- (xiii) Mr Davidson said that the Designated Premises Supervisor would soon be transferring to the new licensee.
- (xiv) CCTV was already in place but the applicant was willing to comply with the Kent Police request.
- (xv) Mr Davidson stated in respect of the Environmental Health agreed wording the applicant felt the revision would assist in the condition not being vague and unmeasurable.
- (xvi) The applicant stated that those who had made representations seemed to have misunderstood the variation application. It was the applicant's intention to only have music events which finish at 23:00 hrs, within the deregulated provisions. It was said to be an oversight not to seek amendment to the current licence which currently permits regulated entertainment until midnight and that this could be amended.
- (xvii) The applicant informed the Sub-Committee that the residents applied for the Saracen's Head to be an asset of community value and that the new licensee needed to be able to develop the business including, music.
- (xviii) The applicant stated there was no viable means of sound proofing the property because the cost would be upwards of £200,000 with no guarantee that it would work.
- (xix) Regarding complaints, the Licensing Manager was able to assist confirming that diaries were sent out in December 2021 but not returned, that there had

been two occasions of complaints regarding patrons being noisy but when officers reviewed those, the complaints did not go beyond the terminal hour, and there had been no out of hours call out the previous weekend.

- (xx) Mr Shirley clarified, for his part, that he did not return the diary because the previous landlord left the licensed premises and he wanted to give the new landlord an opportunity to settle in. It was stated that the previous tenant had come to his property but no progress regarding the noise complaint had been made, so now all matters would be reported.

In reaching its findings the Sub-Committee considered 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: (a) That the application for the variation of a premises licence in respect of Saracen's Head, 1 Alfred Square, Deal CT14 6LS be GRANTED as follows:

- (i) Annex 3 (i) removed

1. The Sub-Committee made the observation that at:

- Page 71 of the agenda the times for carrying out the licensable activity: "indoors, indoor sports events, recorded music, live music, facilities for making music" be amended to 10:00 – 23:00 hours, falling within deregulation.
- Page 72 of the agenda, the non-standard hours, discos and karaoke will cease at 23:00 hours.

- (ii) Annex 3 (ii) removed.

- (iii) Annex 3 (iii) removed

1. The Sub-Committee was disappointed that the applicant is not investing in the premises and was told that they are not fully engaging with residents who have reported their concerns directly to them. However, in light of the reduction of hours as set out there is no regulated entertainment (subject to all the deregulation requirements being satisfied) for which the Sub-Committee could impose conditions. With regard to deregulation, it is a matter of statute that conditions can only be imposed (where relevant to the licensing objectives) under the review process. In this regard if there are issues these should be reported to

the Licensing Team and the Out of Hours Team as appropriate.

- (iv) Annex 3 (iv) removed.
- (v) The other Environmental Health observation regarding signage is already provided for in Annex 2.
- (vi) The CCTV condition agreed between the applicant and Kent Police is accepted by the Sub-Committee.
- (vii) Any other condition not sought to be varied or removed, not contained in the Licensing Manager's report and not expressed in this decision will remain.
- (viii) The Sub-Committee trusts that efforts will be made by the applicant in respect of the concerns that have been raised but in any event the review process is available for matters arising in connection with one or more of the four licensing objectives.

The meeting ended at 4.58 pm.