

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Tuesday, 29 November 2022 at 2.00 pm.

Present:

Sub-Committee:

Chairman: Councillor T A Bond

Councillors: P D Jull
R S Walkden (as substitute for Councillor D G Cronk)

Officers:

Legal Adviser: Principal Lawyer - Litigation and Regulatory

Licensing Officer: Licensing Manager

Licensing Officer

Licensing Officer

Licensing Officer

Technical Support Officer (Licensing)

Administrator: Democratic Services Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2022/0007V and NOD/2022/0008V).

6 APOLOGIES FOR ABSENCE

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

7 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor R S Walkden was appointed as substitute for Councillor D G Cronk.

8 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

9 LICENSING ACT 2003 - APPLICATION TO VARY A PREMISES LICENCE AT ATTIC BAR, FIRST AND SECOND FLOOR, 8-9 CHURCH STREET, DOVER

The Sub-Committee considered an application for the variation of a premises licence in respect of The Attic Bar (first and second floors), 8-9 Church Street, Dover CT16 1LY. The application was for:

Recorded Music

| | |
|-------------------|-------------------|
| Thursday | 23:00 – 03:00 hrs |
| Friday – Saturday | 23:00 – 04:00 hrs |

Late Night Refreshment

| | |
|-------------------|-------------------|
| Thursday | 23:00 – 03:00 hrs |
| Friday – Saturday | 23:00 – 04:00 hrs |

Supply of Alcohol (for consumption ON the premises – first and second floors)

| | |
|-------------------|-------------------|
| Thursday | 11:00 – 03:00 hrs |
| Friday – Saturday | 11:00 – 04:00 hrs |

The opening hours of the premises are to be as follows:

| | |
|-------------------|-------------------|
| Thursday | 11:00 – 03:00 hrs |
| Friday – Saturday | 11:00 – 04:00 hrs |

Amend current premises licence conditions as follows:

| Current Condition | Proposed Condition |
|---|---|
| There is to be no use of the pool tables after 22:00 hrs once the nightclub is open. | Once the nightclub is open, pool tables should be monitored at all times by an SIA door supervisor. |
| If operating as a nightclub, a minimum of 4 SIA door staff will be on duty on Fridays and Saturdays from 22:00 hrs until 30 minutes after closing time. | If operating as a nightclub, a minimum of 3 SIA door staff will be on duty on Fridays and Saturdays from 22:00 hrs until 30 minutes after closing time. |
| All windows to the premises are to be kept closed at all times. | All windows to the first floor nightclub to be kept closed at all times. Windows on the second floor pool room to be kept closed after 23:00 hrs. |
| There is to be no admission into the nightclub after 02:00 hrs. | There is to be no admission into the nightclub after 03:00 hrs. |

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 from Vedat Dok for the variation of a premises licence (appendix A of the agenda).
- (iii) Existing premises licence (appendix B of the agenda).
- (iv) Map of the area (appendix C of the agenda).
- (v) Representation from Environmental Health (appendix D of the agenda).
- (vi) Representations from Other Persons (appendix E of the agenda).
- (vii) Withdrawal of representation from Environmental Health (supplementary paper).

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

- (i) The application from Vedat Dok (as represented by Ben Pilott), was for the variation of a premises licence at The Attic Bar, First and Second Floor, 8-9 Church Street, Dover CT16 1LY. The application sought to increase the licensable hours, remove/amend some of the current licence conditions and licence both the first and second floors for the same hours (as shown at pages 15, 22, 29, 30, 31 and 32 of Appendix A of the agenda).
- (ii) Representations from Environmental Health were received during the consultation process citing the licensing objective of Public Nuisance in their objections. Environmental Health suggested amended condition wording which was agreed by the applicant ahead of the hearing (as shown in the supplementary paper) therefore the Environmental Health objections were withdrawn prior to the hearing.
- (iii) Notwithstanding, Mr Woodland (representative for Environmental Health) detailed to the Sub-Committee the original concerns as to no drinking up time, no stopping of music before closing encouraging patrons to leave and the concern that the pool room had insufficient acoustic qualities to prevent noise breakout. With regard to the pool room Environmental Health proposed that only background music should be played which was stated to be music at a level where a normal quiet conversation could be had without having to raise your voice to be heard.
- (iv) Mr Woodland provided the Sub-Committee with an overview of the noise complaints relating to this premises since July 2021:
- Between July 2021 and May 2022 there were 7 individual complaints – some noise nuisance diaries were issued and several complainants were given access to out of hours cover on Friday and Saturday nights.
 - Mr Woodland informed the Sub-Committee that there had been a further complaint on 29 May 2022 regarding noise and vehicle noise however, the Council were unable to attend on that occasion.
 - Since the variation application had been made there had been two noise complaints.
- (v) For those complaints between July 2021 and May 2022 Mr Woodland stated:
- On an occasion where shouting was reported, it was observed these were not patrons of The Attic Bar; approximately 14 people were behind the installed barriers at The Attic Bar with no noise.
 - In respect of some of the complaints, the premises had operated under Temporary Event Notices thereby extending the operating hours which may have accounted for some of the complaints (for example, if neighbours were unaware of the extended hours).
 - On an occasion where shouting and bawling had been reported, officers had been present at the time so would have witnessed any issues in respect to this premises and they had not.

- Regarding one of the noise complaints when officers attended, the premises was closed and the barriers were in. No noise disturbance was witnessed.
 - When responding to another noise complaint officers attended and determined there was no noise breakout.
- (vi) Mr Woodland stated that patron noise should be managed by the SIA door supervisors and he confirmed the effectiveness of the SIA door supervisors informing the Sub-Committee that enforcement authorities were able to monitor via the town CCTV system as well as attending the premises. By way of example of the effective SIA supervisors, Mr Woodland detailed an occasion when the smoking area had been busy with approximately 20 people present but the SIA door supervisors managed this well and there were no concerns.
- (vii) Mr Woodland informed the Sub-Committee about a noise abatement notice that had previously been served on the premises (2021) however, this was withdrawn when the DPS was changed.
- (viii) Mr Woodland stated that some noise will occur and that it was not always the fault of this premises however, where there were noise issues associated with the premises it was for the SIA door supervisors to intervene quietly to manage. Where noise reports were made to the Council this was monitored.
- (ix) Following the consultation period, Environmental Health had been in contact with Mr Pilott and the supplementary paper was prepared and there were no remaining objections to the application.
- (x) Mr Williams attended to present his representation in person citing the licensing objective of Public Nuisance in his objections. Mr Williams stated that for five days of the week the area was very quiet but twice a week (Friday and Saturday night) that changed. Mr Williams observed that at approximately 00:30 hrs very few people attended the premises but from approximately 01:00 hrs there was an influx of people who had consumed alcohol elsewhere who were very noisy and aggressive towards each other. Mr Williams stated that even with four SIA door supervisors people were not admitted into the premises fast enough and it could be 02:20 hrs before the queue was cleared although, there he cited the licence condition stating that there should be no admittance after 02:00 hrs. Mr Williams questioned the reduction of SIA door staff whilst seeking extended admittance hours. Mr Williams stated there was no defined queue, no defined smoking area and no barrier. Regarding the sale of alcohol on the second floor Mr Williams questioned who would supervise the sale of alcohol and questioned what provisions for security were to be made for a Thursday. Mr Williams also questioned what out of hours provisions would be in place in respect of extended hours.
- (xi) Mr Rogers was unable to attend to present his representations in person however, asked for a supplementary statement to be read in support of his objection citing the licensing objective of crime and disorder.

- (xii) The remaining written representations citing the licensing objectives of crime and disorder, public nuisance and public safety were taken into account.
- (xiii) Mr Pilott, on behalf of the applicant, in response to Mr Williams' concerns stated:
- That the barriers were always there (confirmed by the Licensing Officer that they had never witnessed the barrier not being out);
 - That the SIA door supervisors pop in and out of the premises with one almost always being present on the door;
 - As for Thursdays it was not yet clear if the premises was to operate only for pool or the nightclub; and
 - Regarding the out of hours provision this would be for the Council however, Mr Pilott commented that the premises had radio contact with the Police and the Council Control Room – the premises could be radioed (or watched through CCTV) and this assisted the Police with deciding to attend or not.
- (xiv) Mr Pilott informed the Sub-Committee that the premises had held its premises licence since July 2021, they were responsible and took the licensing objectives very seriously. He stated they wanted to provide an enjoyable and safe environment. They were a late night venue and did make refusals over a Friday or Saturday night – approximately 15 (intoxication).
- (xv) Since the Funky Monkey closed, the admission numbers seemed to have doubled overnight and there had been no noise related complaints since then.
- (xvi) Mr Pilott applied to Kent Police under the Freedom of Information Act for complaint information unfortunately, this information was not yet available to him. They accepted there was a large number of complaints when they opened, these were reported to the premises and they had been dealt with, now the number of complaints had dropped.
- (xvii) As a venue they were very aware of patron noise when smoking and on Friday and Saturday nights Mr Pilott would be with the security team to keep the noise down and ask patrons to return inside when they had finished smoking. Mr Pilott stated that those who refuse were not allowed to re-enter.
- (xviii) To protect the local residents from noise the barrier was installed and was used.
- (xix) Mr Pilott said the premises would also address these issues on a Thursday too if the extended hours were granted.
- (xx) Mr Pilott stated that the application to amend the SIA door supervisor numbers was now irrelevant given how busy they were currently.

- (xxi) The premises was part of the pub watch scheme, as part of that they do prevent patrons from coming into the premises if they were thought to cause problems.
- (xxii) Mr Pilott specifically addressed a complaint regarding glass, he stated they did not use glass when operating as a nightclub.
- (xxiii) Mr Pilott invited those who suspected the premises of breaching its licensing conditions to report them so those matters could be investigated.
- (xxiv) Regarding the admittance after 02:00 hrs, Mr Pilott stated this time was originally suggested by the Police however, they had no objection to the variation application. The 02:00 hrs condition applied even under a Temporary Event Notice and they would like this extended.
- (xxv) Mr Pilott would like to work with the neighbours and encouraged them to contact him directly as well as reporting matters to out of hours, Licensing and the Police.
- (xxvi) Regarding Sunday – Wednesday, Mr Pilott confirmed no variations were being sought.
- (xxvii) Regarding non-standard times these had been overlooked in the variation application, Mr Pilott accepted these would need to be considered.

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: (a) That the application for the variation of the premises licence in respect of The attic Bar, First and Second Floor, 8-9 Church Street, Dover Ct16 1LY be GRANTED as follows:

(i) Recorded Music

| | |
|--|-------------------|
| Thursday | 23:00 – 03:00 hrs |
| Friday – Saturday | 23:00 – 04:00 hrs |
| NON-STANDARD TIMES: Thursday the terminal hour of 03:00 hrs is only if the nightclub is in operation – music must be stopped by 02:45 hrs. Friday – Saturday the terminal hour of 04:00 hrs is only if the nightclub is in operation – music must be stopped by 03:45 hrs. | |

Late Night Refreshment

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|--|-------------------|
| Thursday | 23:00 – 03:00 hrs |
| Friday - Saturday | 23:00 – 04:00 hrs |
| NON-STANDARD TIMES: Thursday the terminal hour of 03:00 hrs is only if the nightclub is in operation. Friday – Saturday the terminal hour of 04:00 hrs is only if the nightclub is in operation. | |

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Supply of Alcohol (for consumption ON the premises – First and Second Floors)

| | |
|--|-------------------|
| Thursday | 11:00 – 03:00 hrs |
| Friday – Saturday | 11:00 – 04:00 hrs |
| NON-STANDARD TIMES: Thursday last orders for alcohol sales to be taken at 02:30 hrs. Friday – Saturday last orders for alcohol sales to be taken at 03:30 hrs. | |

The opening hours of the premises are to be as follows:

| | |
|-------------------|-------------------|
| Thursday | 11:00 – 03:00 hrs |
| Friday – Saturday | 23:00 – 04:00 hrs |

- (ii) The conditions agreed with Environmental Health in the supplementary paper are accepted. These are included as “non-standard times” above and also to be included:

“background (ambient) music only to be played inside the pool room (second floor)”.

- (iii) Regarding the application for the pool tables –

Current: There is to be no use of the pool tables after 22:00 hrs once the nightclub is open.

Proposed: Once the nightclub is open, pool tables should be monitored at all times by an SIA door supervisor.

This is GRANTED but the SIA door supervisor is in addition to the minimum of 4 SIA door supervisors to be on duty when operating as a nightclub.

- (iv) The SIA conditions extends to Thursdays as well as Fridays and Saturdays where operating as a nightclub (both the ‘4’ and ‘1’ conditions).

(v) Regarding the application for the windows –

Current: All windows to the premises are to be kept closed at all times.

Proposed: All windows to the first floor nightclub to be kept closed at all times. Windows on the second floor pool room to be kept closed after 23:00 hrs.
This is GRANTED.

(vi) Regarding admission –

Current: There is to be no admission into the nightclub after 02:00 hrs.

Proposed: There is to be no admission into the nightclub after 03:00 hrs.

This is REFUSED. Despite the extension of hours being agreed by the Sub-Committee, last admission remains as is, 02:00 hrs.

Any condition not sought to be varied or removed and not in the licensing manager's report or forming part of the Sub-Committee's decision will remain as is.

10 LICENSING ACT 2003 - APPLICATION TO VARY A PREMISES LICENCE AT REACH COURT FARM, REACH ROAD, ST MARGARET'S-AT-CLIFFE, DOVER

The Sub-Committee considered an application for the variation of a premises licence in respect of Reach Court Farm, Reach Road, St Margaret's-at-Cliffe.

The application was to amend the following premises licence conditions:

- Noise readings to be taken to ensure noise levels at 1m from the façade of the nearest dwelling are not above 70dB.
- Amplified music will not be permitted outside the premises.
- Events will extend over no more than 28 days per calendar year.

The variation application sought no amendment to hours or activities.

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 from James Mitchell and Oliver Mitchell for the variation of a premises licence (appendix A of the agenda).

- (iii) Existing premises licence (appendix B of the agenda).
- (iv) Map of the area (appendix C of the agenda).
- (v) Comments from Environmental Health (appendix D of the agenda).
- (vi) Representations from Other Persons (appendix E of the agenda).

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 from James Mitchell and Oliver Mitchell was for the variation of the premises licence to amend the premises licence conditions (as at pages 81 and 93 (appendix A) of the agenda) regarding:
 - Noise readings to be taken to ensure noise levels at 1m from the façade of the nearest dwelling are not above 70dB.
 - Amplified music will not be permitted outside the premises.
 - Events will extend over no more than 28 days per calendar year.
- (ii) Dawn Blythe attended to make her representation in person. Ms Blythe stated that she was unable to relax at home and stated it had been known for the premises to have 5 events in 9 days. Regarding the current licence Ms Blythe stated she was aware of weddings having been held on a Monday although, the premises licence did not permit Mondays and it was a condition for the north door to be shut at all times yet this was not adhered to (Ms Blythe had videos in respect of the door (not shown at the hearing); this was to be followed up with Licensing separately). Ms Blythe stated that because the land (which was believed to be within the ownership of Reach Court Farm) behind Roman Way had been approved as acceptable for housing people had been putting up with the noise so the land was not sold. Ms Blythe stated she did email the licence holders about the noise, the response was polite, but nothing changed. She had also reported the noise and the premises was being monitored but because the premises licence holders were aware of this, the noise was quieter. Ms Blythe stated she believed she was the closest property to the premises however, she should not have to shut her windows and doors in hot weather because of the noise from the premises and it being clearly heard in her home. Ms Blythe stated that the premises should turn down the volume and install sound proofing. By comparison, Ms Blythe said she can only just hear the music from the village hall.
- (iii) John Young attended to make his representation in person. Mr Young commented that he only came across this application because of a social media post and suggested that all applications should be required to be publicised in a similar way. It was explained the advertising requirements were set out in legislation. Mr Young's most pressing concern was the variation application for outside music given the venue's proximity to a large number of properties. Mr Young stated that the outside music request provided no limitation in the application, and he would like to see outside music prohibited. Mr Young stated it was annoying to have wedding singers blasting out when trying to enjoy the garden – from his property he could hear the

announcements from Dover docks on clear days, commenting as to how clear the noise from the farm was. Mr Young stated that in the evening the noise was more muted except when guests open doors and windows or gather outside and talk loudly. At a recent event in October the music could be clearly heard in Mr Young's living room through closed double-glazed windows which he stated to be unacceptable. Mr Young stated that during COVID the nuisance from the venue was tolerable in that events were infrequent but with more events until late at night this had a significant impact on residents. Mr Young stated the residential area was there before the wedding venue.

- (iv) It was clarified for the purposes of the hearing that under the licensing regime there had been deregulations including the playing of music at licensed premises for an audience of fewer than 500 people, between 08:00 and 23:00 hrs. Looking at the plan in the agenda (page 110) the licensed premises included the outside area as was marked by the bold line. In such circumstances any existing licence condition incompatible with the deregulation would be suspended between the hours of 08:00 and 23:00 hrs. The Sub-Committee could not prevent or condition such activity save for on review.
- (v) Regarding the music which was regulated entertainment (after 23:00 hrs) the licensing officer informed the Sub-Committee that a condition citing the nearest property when considering noise levels was out of date and should be updated. The licensing officer stated there had been three complaints regarding the premises in the last 12 months – two of which were in respect of the condition to keep the door closed however, there could only be a breach after 23:00 hrs because it was a condition in respect of amplified music and one because of the number of events but additional events may be held under Temporary Event Notices.
- (vi) The applicants stated they believed there had been a misunderstanding as to their application. They were seeking to increase events from 28 to 35 (which was within their planning conditions), currently Temporary Event Notices were relied on for events above the 28 permitted in the premises licence.
- (vii) The applicants wished to reassure the Council and their neighbours there were no changes to times, to the months and they did not wish to have fireworks. The applicants also stated they had not hosted cinema nights.
- (viii) Outdoor music was intended for short periods of time such as a wedding ceremony and drinks and would be no later than 20:00 hrs given their planning conditions.
- (ix) It was clarified for the purposes of the hearing that the planning and licensing regimes were distinct and separate.
- (x) The applicants stated they had a noise management plan and a noise limiter was installed at the venue. Every band was greeted and equipment plugged into the noise limiter which was connected to a light bank on the wall which showed the volume level and the premises kept a log of sound recordings for their own record.

- (xi) No representations were made by Environmental Health but their observations (as published at page 112 (appendix D) of the agenda) were noted.
- (xii) The written representations (citing the licensing objective of public nuisance) were taken into account.

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: (a) That the application for the variation of the premises licence in respect of Reach Court Farm, Reach Road, St Margaret's-at-Cliffe be GRANTED as follows:

- (i) Noise reading to be taken to ensure noise levels at 1m from the façade of the nearest dwelling are not above 7dB

REPLACED WITH:

Noise limiter installed within the barn to control sound levels, set at 87dB (in accordance with the Environmental Noise Management Plan (ENMP))

- (ii) Amplified music will not be permitted outside the premises

REMOVED

- (iii) Events will extend over no more than 28 days per calendar year

REPLACED WITH:

Events will extend over no more than 35 days per calendar year

Any condition not sought to be varied or removed and not in the Licensing Manager's report or forming part of the Sub-Committee's decision will remain as is.

The meeting ended at 5.25 pm.