

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Wednesday, 29 May 2024 at 10.03 am.

Present:

Sub-Committee:

Chairman: Councillor S Hill

Councillors: P M Brivio  
M F Hibbert

Officers:

Legal Adviser: Litigation Lawyer  
Licensing Officer: Licensing Manager  
Technical Support Officer (Licensing)  
Administrator: Democratic Services Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2024/0008A).

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 DEAL DELI, 168 HIGH STREET, DEAL

The Committee considered an application for the grant of a premises licence in respect of Deal Deli, 168 High Street, Deal CT14 6BQ. The application was for:

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

Every day	10:00 – 19:00 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 from Craig Selby for the grant of a premises licence and plan (appendix A of the agenda)
- (iii) Map of the area (appendix B of the agenda)

- (iv) Representations from Other Persons (appendix C of the agenda)
- (v) Supplementary papers published on 22 May 2024, 23 May 2024, 24 May 2024 and 28 May 2024

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

- (i) The application from Craig Selby was for the grant of a premises licence at Deal Deli, 168 High Street, Deal CT14 6BQ. The application sought the supply of alcohol for consumption on and off the premises every day from 10:00 – 19:00 hrs.
- (ii) During the consultation process there were no representations made by any of the Responsible Authorities.
- (iii) During the consultation process six representations objecting to the application were received from Other Persons. They cited the licensing objectives – prevention of public nuisance. In summary, the Other Persons raised concerns about the noise impact on the nearby properties, smoke and vape fumes, the use of the pavement by patrons and the need of the venue in the area.
- (iv) There were nineteen representations in support of the application and two further objections however these were received outside the consultation time limit imposed by the Licensing Act therefore they were not considered.
- (v) In considering the relevant representations, the Sub-Committee took into consideration that there was no cumulative impact policy in the area, no representations were received from the Responsible Authorities, the concerns raised were speculative therefore under the case law they should be disregarded unless supported by previous facts as evidence. The Sub-Committee also took into consideration that they could not determine any regulatory matters (i.e. street furniture) or planning matters (i.e. change of use or “need” for a business), that the A-board was not a matter for this Council and that the other neighbours who were mentioned during the hearing did not make representations and therefore not relevant.
- (vi) The Sub-Committee heard from Mr Barkas who also spoke on behalf of Ms Rebecca Bain Smith, Ms Hilary Clare and Mr and Mrs Kyle. He raised concerns regarding the enforcement of non-smoking and drinking outside his front windows. He also explained that he suffered with a serious health condition and in order to prevent noise and smoke and fumes entering his property, he would have to keep his windows shut in the summer which was unreasonable. He also raised concerns about the boundary of the property and the nearby bars already having crowded pavements with people congregating outside the premises and blocking pavements. Mr Barkas also raised concerns regarding breached of Council’s policy and other licensing objectives. Regarding the representations that extended beyond his written submissions he was reminded by the Legal advisor that he cannot introduce new information.

- (vii) The Sub-Committee heard from Charlotte Burton who raised concerns regarding noise coming from the courtyard and the likely access to and from the premises through the back of the courtyard resulting in increase in Anti-Social Behaviour (ASB) on Ivy Lane. She also raised concerns about the customers using the pavement resulting in inconvenience for elderly and for people with disabilities. Ms Burton explained that she did not hear from the applicant and that she found his Facebook post intimidating.
- (viii) The Sub-Committee heard from Rebecca Bain Smith who raised concerns regarding the effect of the noise on her Special Educational Needs (SEN) students who required a calm environment. She also raised concerns about the pavement being used by customers and she explained that walking past crowds was intimidating.
- (ix) The Sub-Committee heard from Mr Selby, who set out his experience and his previous involvement with the community. He explained that he lived above the shop with his daughter and he felt strongly about the community. He explained that the neighbours had his private phone number and he was keen to resolve any issues raised. He informed the Sub-Committee that his neighbour at no.166 raised issues regarding noise from the coffee machine. This issue was resolved by sound proofing being bought and installed. Mr Selby explained that he had already had six Temporary Event Notices (TENS) which was 42 trading days, and no issues were reported. This was confirmed by the Licensing Manager. He also explained that his customers had enjoyed a coffee and cake outside his premises since November 2023 and there had been no reports of ASB, noise, smoke fumes or customers spilling into the neighbouring premises. Mr Selby further explained that he was not looking to set up a drinking establishment, he was looking to serve Italian delicatessen with alcohol as an accompaniment. He was looking to promote the Italian culture which was a bit more sophisticated, and he did not expect his customers to stay for significant periods of time. He explained that he was not looking to cause any detrimental issues to anyone's environment. Mr Selby explained the courtyard was intended to be used for his customers to enjoy a coffee and croissant. Regarding the licensable area, Mr Selby advised that he was seeking boundary A to the garden wall and that in the future, the area that was currently an office would be used by customers as well. In addressing the concerns raised about the boundary of his property, Mr Selby explained that he would make the necessary enquiries and he would also seek the necessary planning and regulatory permissions.
- (x) The Sub-Committee heard from Mr Richardson who explained his involvement with Mr Selby including setting up the first social distancing bar at the Walmer Paddling Pool during Covid 19. The Sub-Committee noted the character reference.
- (xi) The Licensing Manager addressed the concerns raised by Other Persons regarding a previous application and this application not being advertised correctly and clarified procedures were followed in accordance with the Licensing Act.

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 in respect of Deal Deli, 168 High Street, Deal CT14 6BQ be GRANTED as applied for as follows:

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

Every day	10:00 – 19:00 hrs
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Subject to one amendment that being the licensable area will not include the area in front of the front door. The licensable area at the front will be included but it will be reduced to cover the area in front of the shop window. This will provide clear access to the door and it will increase the distance from the neighbouring window.

The meeting ended at 11.42 am.