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Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held as a Teams Live Event on Friday, 18 December 2020 at 10.00 am.

Present:

Sub-Committee:

Chairman: Councillor P M Brivio

Councillors: J P Haste
R S Walkden

Officers:

Legal Adviser: Contentious and Regulatory Lawyer
Licensing Officer: Licensing Team Leader
Administrator: Democratic Services Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2020/00001).

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 119 HIGH STREET, DEAL

The sub-committee considered an application from Mr A and Mrs S Kirkwood in respect of 119 High Street, Deal. The application was for the grant of a premises licence as follows

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

Every day	09:00 – 22:00 hrs
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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 was for a ground floor retail shop with high street frontage retail space, rear seating area and garden seating, trading as a deli/bistro with on and off sales of alcohol. The produce would be of high-quality, with the intention to offer food and drink tasting evenings with guest chefs. There will be on average twelve covers at any one time with a maximum of twenty if hosting a wine tasting event. The applicants stressed this was not to be primarily a drinking establishment.

- (ii) The applicants were experienced retailers and premises licence holders and had traded in Deal since 2008. They were the owners and co-founders of the Dining Club in 2008 and Victuals & Co from 2013 to 2018. Both premises were situated in a mixed residential/commercial area with no reported complaints made to the authority in relation to the licensing objectives and these premises.
- (iii) Three representations were received objecting to the application. Mr Baines and Mr & Mrs Cullingworth were present at the Hearing. The sub-committee had considered the representation submitted by Mr R Donnell who was not present at the Hearing. There were no representations made by any of the Responsible Authorities, including the police.
- (iv) The licensing objectives cited to be undermined by the objectors were Prevention of Public Nuisance and Prevention of Crime and Disorder. The objectors were concerned that an additional licensed premises on the High Street, which already had a high concentration of licensed premises, would increase anti-social behaviour and noise nuisance for residents.
- (v) There were concerns that there was no provision for smokers, and this would cause a public nuisance for the neighbouring residents. The applicants advised there would be no smoking at the premises which included the garden and that they would ask guests and patrons to use suitable bins on the High Street. They advised this approach had been successful with customers at their other premises and that they were willing to comply with their request.
- (vi) Mr Baines and Mr & Mrs Cullingworth were direct neighbours either side of the premises. Mr Baines submitted photos to show the proximity of the garden, kitchen and outside toilet to his property. They raised issues concerning the use of the garden under previous proprietors and stated a planning condition had been breached. The planning consent required a barrier to be in situ in the garden to protect the residential amenity of the neighbouring properties. It was suggested by the Other Parties that this barrier should be reinstated if permission be granted to prevent overuse. The applicants advised they would only use the area of the garden as per the planning decision in 2007.
- (vii) The sub-committee accepted that there may have been some planning issues previously, but no issues were reported to the authority regarding licensing and the applicants were not the previous licence holders in any event.
- (viii) Mr Baines said that the consumption of alcohol in the garden from 09:00 hrs – 22:00 hrs would create considerable noise, odours (from smokers) and light pollution in the evenings. Mr Baines requested that if the premises licence was to be granted that a condition preventing the consumption of alcohol outside be added to the licence. The applicants advised that they were not intending to use the garden beyond 17:30 hrs.
- (ix) Mr Cullingworth raised safety concerns given the speed and volume of traffic on the High Street and the proximity of the entrance/exit of the premises to the road and cited the Amended Guidance issued under Section 182 of the Licensing Act 2003. The Contentious and Regulatory Lawyer sought further clarification that this was with regard to paragraphs 2.1 – 2.9 of the Act which also included reference to the objective of Public Safety. The safety concerns

raised had been considered by the sub-committee and were not accepted as undermining any objective.

- (x) The sub-committee found that many of the concerns that had been raised by objectors had been addressed by the applicants. There was no cumulative impact policy in place to be applied and there had been no evidence put forward to suspect that this premises with these applicants should not be licensed.

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

RESOLVED: (i) GRANT the application for a premises licence in respect of 119 High Street, Deal, with the proposed conditions as per the operating schedule as follows:

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

<u>Every day</u>	<u>09:00 – 22:00 hrs</u>
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Save that the patio area, as per the application, cannot be used for the sale or consumption of alcohol after 17:30 hrs on any day.

- (ii) Signage to be placed in the patio area to inform patrons and guests that use of the garden is not permissible. The patio is not to be used until the signs are displayed.
- (iii) The sub-committee suggests consideration be given to re-instating the physical barrier that objectors had talked of, to ensure garden cannot be used.

The meeting ended at 11.28 am.