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Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Monday, 7 June 2021 at 2.32 pm.

Present:

Sub-Committee:

Chairman: Councillor T A Bond

Councillors: D G Cronk
P D Jull

Officers:

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

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2021/0003A and NOD/2021/0004V).

1 APOLOGIES FOR ABSENCE

There were no apologies for absence from Members.

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 THE ATTIC BAR, FIRST FLOOR AND SECOND FLOOR, 8-9 CHURCH STREET, DOVER

The Sub-Committee considered an application for the grant of a premises licence in respect of The Attic Bar, First Floor and Second Floor, 8-9 Church Street, Dover for:

Supply of Alcohol (for consumption ON the premises)

| | |
|--|-------------------|
| Sunday – Wednesday | 11:00 – 01:45 hrs |
| Thursday – Saturday | 11:00 – 03:45 hrs |
| New Year's Eve, Christmas Eve, Bank Holidays | Until 03:45 hrs |

Late Night Refreshment

| | |
|---------------------|-------------------|
| Sunday – Wednesday | 23:00 – 01:45 hrs |
| Thursday – Saturday | 23:00 – 03:45 hrs |

Recorded Music

| | |
|---------------------|-------------------|
| Sunday – Wednesday | 23:00 – 01:45 hrs |
| Thursday – Saturday | 23:00 – 03:45 hrs |

Opening Hours

| | |
|---------------------|-------------------|
| Sunday – Wednesday | 11:00 – 01:45 hrs |
| Thursday – Saturday | 11:00 – 03:45 hrs |

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

- (i) The application for The Attic Bar sought the grant of a premises licence for a first and second floor premises, that was previously a bar and nightclub. The first floor would be used as a late-night bar and nightclub (hereafter referred to as nightclub), open until 04:00 hrs every Thursday, Friday, and Saturday. The second floor would be used as a bar and pool room and open daily until midnight. When the nightclub was open the pool room would close at 22:00 hrs. The capacity of the premises was 107 people.
- (ii) Ten representations were received objecting to the application. The sub-committee took into account all written representations; the representations of those present at the hearing; an additional statement read out at the hearing that was submitted by Theresa Hardy; and an additional statement, omitted from the printed agenda, from Mr and Mrs Thomas.
- (iii) 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 all residents of Stembrook Court, which contained 34 residential flats, including housing vulnerable and elderly people and children, and was located adjacent to The Attic Bar.
- (v) The objectors advised that their primary concern was the excessive noise from the premises until closing time at 04:00 hrs and beyond as the patrons were leaving the premises. Mr Pilott advised that the closing time of 04:00 hrs was considered in line with Dover District Council's Licensing Policy which sought to stagger patrons leaving premises in the town. The Lava Lounge and The Funky Monkey closed at 03:00 hrs. Mr Pilott confirmed that it was now proposed that the nightclub would only operate on Friday and Saturday nights.
- (vi) There was no consensus from the objectors when asked what an acceptable closing time might be. It was however accepted by all objectors that 04:00 hrs was too late.
- (vii) When the premises operated a nightclub, as the Party Bar (a licensed premises) the objectors would hear shouting, swearing, fights, laughing,

taxis arriving, car doors closing – all of which contributed to their disturbed and deprived sleep. The sleep deprivation affected their mental health and the following day, for some who were at work and at school. The Party Bar stopped operating in 2017 and during lockdown the residents of Stembrook Court stated they had not experienced the same noise disturbances from other licensed premises. It was acknowledged that the current applicant was not the premises licence holder at the Party Bar.

- (viii) Although they also experienced anti-social behaviour in and around their premises by way of damage to the flats, people entering the hallways and urinating in the surrounding area, these issues could not be attributed solely to The Party Bar nor The Attic Bar.
- (ix) Objectors stated that the music from the previous licensed premises could be heard in Stembrook Court and several of the flat's bedrooms were in Church Street, directly opposite the premises. Whilst the flats had double glazed windows the music could still be heard which contributed to their sleep deprivation. In the statement read out at the hearing submitted by Theresa Hardy she stated that she had recently seen staff in the premises and had heard music coming from the premises.
- (x) Mr Pilott advised he had recently been at the premises testing the sound levels and found the music could not be heard from outside the premises. They had installed sound insulation and acoustic seals were to be installed also. The first floor where the nightclub would be located had double glazed windows, which did not open, and air conditioning, although the second floor did not. In addition, all doors had been installed with automatic closing devices to minimise noise levels.
- (xi) Mr Pilott addressed some of the other concerns. There would be four SIA staff on duty when the nightclub was in operation. Two would be located at the door: one checking ID and carrying out body searches at the premises with the other in the doorway, where patrons were to queue on the stairs. There would be no queuing outside so as to minimise noise disturbance to nearby residents. On busier nights safety stewards would be on duty. Mr Pilott advised objectors there would be a dedicated community liaison officer at the premises to deal with any resident concerns.
- (xii) To minimise disturbances and noise outside at closing time, patrons would be led into St Mary's Passage and onto Cannon Street. This would be managed by way of metal security barriers from the doorway, preventing access into Church Street. Security staff would be directing them in that direction also. Anyone not complying with the requests of the security staff would receive a three-month ban from the premises. Any patrons seen causing anti-social behaviour by security staff would also receive a three-month ban. It was recognised that permission from Kent County Council was required for the citing of the security barriers and this had not yet been applied for.
- (xiii) Whilst many of the issues faced by the objectors were genuine issues of anti-social behaviour and public nuisance, these issues were faced when the premises had previously operated under a different licence holder and currently, from other licensed premises in the area. Therefore, the sub-committee could not consider speculative issues for this applicant, based on the actions of other licensed premises.

- (xiv) The applicant had demonstrated that they clearly understood the responsibilities of a licence holder. The sub-committee found that many of the concerns that had been raised by the objectors had been addressed by the applicant and a number of steps were to be in place to mitigate any issues that may arise.

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

Supply of Alcohol (for consumption ON the premises)

Pool Room (Second Floor)

| | |
|---------------------|--|
| Sunday – Thursday | 11:00 hrs – until midnight ONLY (last orders at 1145 hrs) |
| Friday and Saturday | 11:00 – 22:00 hours |

Late-Night Bar and Nightclub (First Floor)

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|---------------------|--|
| Friday and Saturday | 22:00 hrs until 03:30 hrs (last orders at 03:00 hrs) |
|---------------------|--|

Late-Night Refreshment

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|-------------------|--|
| Sunday – Thursday | 23:00 – midnight |
| Friday – Saturday | 23:00 – 03:30 hrs If nightclub in operation |

Recorded Music

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|-------------------|--|
| Sunday – Thursday | 23:00 – midnight |
| Friday – Saturday | 23:00 – 03:30 hrs If nightclub in operation |

- (i) If operating as a nightclub then there is to be a minimum of 4 SIA door staff on the premises on Fridays and Saturdays from 22:00 hrs until 30 minutes after closure of the premises. Said door staff to assist in dispersal of patrons from the area.
- (ii) For the nightclub there shall be no admittance to the premises after 02:00 hrs.

- (iii) Metal safety barriers to be in place when the nightclub is in operation, so as to lead patrons into St Mary's Passage and onto Cannon Street thus preventing access into Church Street.
- (iv) Conditions as offered up in the operating schedule along with points 2, 3, 7, 8, 9 and 10 as set out in Appendix C to the report, are to be applied to the licence.
- (v) The sub-committee directed that the premises cannot operate as a late-night bar and nightclub until permission from Kent County Council is sought and safety barriers are permitted to be in place. If not approved the application will have to come back to the Licensing Committee for further determination.

5 LICENSING ACT 2003 - APPLICATION TO VARY A PREMISES LICENCE AT PHOENIX RAILWAY CLUB, CRABBLE ROAD, DOVER

The Sub-Committee considered an application for the variation of a premises licence for Phoenix Railway Club, Crabble Road, Dover. The application sought to extend the licensable area and amend the times as follows:

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

| | |
|--------------------------|-------------------|
| Sunday – Thursday | 09:00 – 23:59 hrs |
| Friday - Saturday | 09:00 – 01:00 hrs |
| Non Standard Timings | |
| Christmas Eve | 09:00 – 01:30 hrs |
| New Years Eve | 09:00 – 02:00 hrs |
| Bank holiday weekends | 09:00 – 01:30 hrs |
| Annual Darts Competition | 09:00 – 00:30 hrs |

Plays (Indoor and Outdoor)

| | |
|-------------------|-------------------|
| Sunday – Thursday | 09:00 – 23:59 hrs |
| Friday - Saturday | 09:00 – 01:00 hrs |

Films (Indoor and Outdoor)

| | |
|-------------------|-------------------|
| Sunday – Thursday | 09:00 – 23:59 hrs |
| Friday - Saturday | 09:00 – 01:00 hrs |

Indoor Sporting Events

| | |
|-------------------|-------------------|
| Sunday – Thursday | 09:00 – 23:59 hrs |
| Friday - Saturday | 09:00 – 01:00 hrs |

Boxing or wrestling entertainments (Indoor and Outdoor)

| | |
|-------------------|-------------------|
| Sunday – Thursday | 09:00 – 23:59 hrs |
| Friday - Saturday | 09:00 – 01:00 hrs |

Live Music (Indoor and Outdoor)

| | |
|-----------------------|-------------------|
| Sunday – Thursday | 09:00 – 23:59 hrs |
| Friday - Saturday | 09:00 – 01:00 hrs |
| Non Standard Timings | |
| Christmas Eve | 09:00 – 01:30 hrs |
| New Years Eve | 09:00 – 02:00 hrs |
| Bank holiday weekends | 09:00 – 01:00 hrs |

Recorded Music (Indoor and Outdoor)

| | |
|-----------------------|-------------------|
| Sunday – Thursday | 09:00 – 23:59 hrs |
| Friday - Saturday | 09:00 – 01:00 hrs |
| Non Standard Timings | |
| Christmas Eve | 09:00 – 01:30 hrs |
| New Years Eve | 09:00 – 02:00 hrs |
| Bank holiday weekends | 09:00 – 01:00 hrs |

Performance of Dance

| | |
|-----------------------|-------------------|
| Sunday – Thursday | 09:00 – 23:59 hrs |
| Friday - Saturday | 09:00 – 01:00 hrs |
| Non Standard Timings | |
| Christmas Eve | 09:00 – 01:30 hrs |
| New Years Eve | 09:00 – 02:00 hrs |
| Bank holiday weekends | 09:00 – 01:00 hrs |

Late Night Refreshment

| | |
|---------------------------|-------------------|
| Sunday – Thursday | 23:00 – 23:59 hrs |
| Friday - Saturday | 23:00 – 01:00 hrs |
| Non Standard Timings | |
| Christmas Eve | 23:00 – 01:30 hrs |
| New Years Eve | 23:00 – 02:00 hrs |
| Bank holiday weekends | 23:00 – 01:30 hrs |
| Annual Darts Competitions | 23:00 – 00:30 hrs |

In addition to increased times for the current licensable activities and additional activities, the applicant also sought to increase the licensable area to include the garden and an additional bar.

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

- (i) The premises was currently licensed under a Premises Licence and a Club Premises Certificate. The variation application sought to incorporate the whole premises under the one premises licence.
- (ii) In addition, the application sought to include: a new outdoor bar, including the garden; add licensable activities; alcohol sales both on and off the premises; and to change the times of the existing licensable activities, including entertainment.
- (iii) One representation from Dover Town Council (DTC) was received objecting to the application. DTC cited the Licensing Objective – Prevention of Public

Nuisance and stated that the club was in an area already blighted by noise from the nearby train line and the long hours and private events may cause considerable disturbance to nearby residents. There were no representations made by any of the Responsible Authorities, including the police.

- (iv) The applicant's described the club as a family run members' club. Committee members and officers were always present during all events in the garden and described the club as a family focussed premises. Covid had impacted on the hiring of the inside space of the hall and so alternative uses of the outside space were being sought. Temporary Event Notices (TENs) had been utilised during the past year.
- (v) It was noted that there had been five complaints regarding an event on 8-9 August 2020. The applicant advised the event was a small festival, from 1200 hrs – 2000 hrs Friday and Saturday and was not organised by the club and they had learnt from that experience.
- (vi) Many of the residents in the neighbouring properties were members of the club and were encouraged to approach the club staff if they had any issues with events. If the variation were to be granted the club would distribute leaflets to the neighbouring properties notifying them of the event, including contact details for the club should they encounter any problems with the event.
- (vii) The Sub-Committee considered the representation from Dover Town Council and noted there were no representations from local residents nor the Responsible Authorities, The representation from DTC was speculative and there was no reason to believe the variation would undermine the licensing objectives.

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) That the variation application be GRANTED as sought and set out in details above for Phoenix Railway Club, Dover.

- (a) The Sub-Committee requests, that for openness, the Dover District Council's licensing department's email address be added to the leaflets they intend to deliver notifying residents of events.

The meeting ended at 5.01 pm.