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Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at Deal Town Hall, Deal on Tuesday, 11 January 2022 at 11.00 am.

Present:

Sub-Committee:

Chairman: Councillor D P Murphy

Councillors: M F Hibbert
K Mills (as substitute for Councillor M Bates)

Officers:

Legal Adviser: Contentious and Regulatory Lawyer
Licensing Officers: Licensing Manager
Licensing Enforcement Officer
Administrator: Administration Assistant
Democratic Services Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2022/0002A).

32 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor M Bates.

33 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor K Mills was in attendance as substitute for Councillor M Bates.

34 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

35 LICENSING ACT 2003 - APPLICATION FOR THE GRANT OF A PREMISES LICENCE IN RESPECT OF BIGGIN OFF LICENCE, 52 BIGGIN STREET, DOVER

The Sub-Committee considered an application for the grant of a Premises Licence for Biggin Off Licence, 52 Biggin Street, Dover for the following

Supply of Alcohol (for consumption OFF the premises)

Sunday – Thursday	08:00 – 23:00 hrs
Friday – Saturday	08:00 – 02:00 hrs

On the basis of the representations of the applicant, their representative and the Responsible Authorities, the Sub-Committee found the following facts to be established:

- (i) The application for Biggin Off Licence was for the grant of a premises licence for the supply of alcohol off the premises, from 08:00 hrs to 23:00 hrs on Sunday to Thursday and 08:00 hrs to 02:00 hrs on Friday and Saturday. The

premises was a general convenience store and off licence in Dover town centre.

- (ii) Two representations objecting to the application were received from the Responsible Authorities, Kent Police and Trading Standards. Kent Police cited all four licensing objectives as being undermined in their representation and said the premises was a source of crime and disorder and public nuisance within the night-time economy. Trading Standards made their representation under the Prevention of Crime and Disorder.
- (iii) To help understand who was responsible at the premises when the incidents took place that Kent Police and Trading Standards referred to in their representations, the Licensing Manager provided with the following details to assist:
 - 26 May 2021 – Biggin Off Licence Ltd granted a premises licence for Biggin Off Licence
 - 26 May 2021 – variation application received from Biggin Off Licence to increase the hours for alcohol sales
 - 31 August 2021 – variation application to increase the hours for alcohol sales and granted at hearing
 - 15 October 2021 – premises licence surrendered
 - 15 November 2021 – current application received
- (iv) Mr Mogtabapana told the Sub-Committee he had taken over the lease of Biggin Off Licence in August 2021 and took over the management of the premises in October 2021 although the exact dates could not be established. It was noted that this premises licence application was dated 10 November 2021. The previous licence holder had surrendered the licence in October 2021.
- (v) The Licensing Enforcement Officer carried out an inspection of the premises on 15 October 2021 and found that whilst beers were in the fridge, they were covered over, and wines and spirits were in the storeroom.
- (vi) In their representation, Kent Police said the area where the premises was located was frequented by many at night who were visiting local night-time venues. Within the vicinity of the premises there were several pubs, eight off-licences within a 250-metre radius, and a bingo hall. The premises was in the town centre where there were often issues with drunkenness and rowdy behaviour at night that led to fights aggravated by alcohol. Because of these issues they were opposed to the premises being open until 02:00 hrs in what was also a residential area. They had additional concerns regarding the operating of the business and how the applicant would ensure the conditions on licence would be adhered to.
- (vii) Kent Police had received reports from residents living above the premises complaining that people were going into the premises in the early hours to purchase alcohol and were gathering outside the premises. At the hearing Kent Police requested a reduction in hours, with the terminal hour of 23:00 hrs on Fridays and Saturdays to be in-line with other off-licences within 250 metres of the premises. If the Sub-Committee was minded to grant the application as requested, Kent Police wanted to impose a condition to the

licence that would require a Security Industry Authority (SIA) door supervisor on the premises from 22:00 hrs to 02:00 hrs.

- (viii) Mr Gordon queried why Kent Police had not objected to the original grant of a premises licence by another applicant in May 2021 whereby the licence application requested the same terminal hour. Kent Police replied advising that there hadn't previously been an off-licence open until that time and that they had to ensure the premises and public were kept safe.
- (ix) Having discussed the concerns of Kent Police with the applicant, Mr Gordon advised that a reduction in the terminal hour to 23:00 hrs would be acceptable although Mr Mogtabapana would ideally want to stay open until 02:00 hrs and with additional staff.
- (x) Mr Jewell, Principal Trading Standards Officer, advised the Sub-Committee that Trading Standards' concerns were with the premises, not the applicant, and the sale of illegal tobacco products under the previous licence holder.
- (xi) It could not be established when the incidents that were cited in the intelligence report provided to Trading Standards on 24 November 2021 took place. The details had been passed to them from Kent Police and Trading Standards had not visited the premises.
- (xii) Both Trading Standards and Kent Police expressed concern that the member of staff who was connected to the illegal sales was still known to be working at the premises. Mr Mogtabapana had not been aware of the issues and whilst the staff member was still employed at the premises, he would be accompanied at all times by the new Designated Premises Supervisor (DPS), Mr Bahman Abdullah, who had recently been trained by Mr Gordon and whose details would be provided to the Licensing authority after the hearing.
- (xiii) Mr Mogtabapana accepted the concerns raised and assured the Sub-Committee there would be stronger management of the premises than there had been under the previous owners/management and that he had no intention to continue with the sale of the paraphernalia such as grinders which were associated with drug use.
- (xiv) He would comply with the conditions on the licence and all staff would be fully trained to uphold the licensing objectives. The CCTV on the premises was now working and Mr Mogtabapana was able to view this on his mobile phone. This was the first retail business that he had owned, he had no previous experience of running this type of business, but he had recently received a level 2 Award for Personal Licence Holders (APLH) and trained by Mr Gordon.
- (xv) The Sub-Committee advised it had considered all of the representations from the Responsible Authorities and in particular the police's reference to incidents but in its opinion, these could not be solely attributed to this premises nor this applicant. It further noted that there were no representations from any members of the public.
- (xvi) The Sub-Committee noted that whilst there were issues with the night-time economy there was no evidence that this applicant was responsible for

adversely affecting that, nor was there any cumulative impact policy in place for that area.

- (xvii) The issues raised by both Kent Police and Trading Standards related to when the previous licence holder was responsible for the premises and there had been no review called and no formal actions taken. There was some confusion over when the applicant had actually taken over running of the premises but it was accepted that up until 15 October 2021 the premises licence was held by the previous licensee.
- (xviii) It was noted that the sale of drug associated paraphernalia was not illegal and although e-cigarette items had been seized, these were not directly related to the Licensing Act 2003.
- (xix) The applicant had agreed to the additional staff if the licence were permitted until 02:00 hrs and had stated he was prepared to reduce the hours until 23:00 hrs if required to do so. It also noted that a new DPS would be in place.
- (xx) The Sub-Committee found no evidence that the application nor the applicant would adversely impact the night-time economy. However, they were mindful that the applicant had no previous experience of running a licensed premises and felt operating late at night, was something that would require more experience.

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

RESOLVED: That the application for a Premises Licence for Biggin Off Licence, 52 Biggin Street, Dover be GRANTED as follows

- (a) Supply of Alcohol (for consumption OFF the premises)

Every day	08:00 – 23:00 hrs
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- (b) With the conditions as per the Operating Schedule save for the following amendments to be made

- (i) Training/Authorisation: (b) Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 12 weeks, with the date and time of the verbal reinforcement/refresher training to be documented. All new staff to be trained at the outset of starting work.

- (ii) That CCTV footage will be stored for a minimum of 28 days.

The meeting ended at 12.52 pm.