MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 SUB COMMITTEE

MINUTES OF THE MEETING HELD ON TUESDAY 2 NOVEMBER 2021

Present: **Councillors Garten (Chairman), Joy and Naghi**

23. APOLOGIES FOR ABSENCE

There were no apologies for absence.

24. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

25. ELECTION OF THE CHAIRMAN

RESOLVED: That Councillor Garten be elected as Chairman for the duration of the meeting.

26. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members and Officers.

27. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

28. EXEMPT ITEMS

RESOLVED: That all items be taken in public as proposed.

29. APPLICATION TO VARY A PREMISE LICENCE UNDER THE LICENSING ACT 2003 FOR THE ZOO, 10 - 11 MARKET BUILDINGS, MAIDSTONE, KENT , ME14 1HP

The persons participating in the hearing were identified as follows:

Chairman – Councillor Garten

Committee Member – Councillor Joy

Committee Member – Councillor Naghi

Legal Advisor (in attendance virtually) – Mr Robin Harris

Democratic Services Officer – Miss Oliviya Parfitt

Applicant – Mr Christopher Dyer

For the applicant:

Mr Stephen Thomas – Solicitor, Miss Rebecca Davis – Assistant Manager and Mr Owen Ranger – Sound Management Consultant.

All parties confirmed that they were aware of the Sub-Committee hearing procedure and had each received a copy of the hearing procedure document.

The Sub-Committee agreed to proceed in the absence of the objectors. The Sub-Committee confirmed that they had read the papers and the additional documentation provided by the applicant's representative.

The Chairman explained that:

· The Sub-Committee would allow all parties to put their case fully and make full submissions within a reasonable time frame.

· The procedure would take the form of a discussion led by the Sub-Committee and they would usually permit cross-examination conducted within a reasonable timeframe.

· Any person attending the hearing who behaved in a disruptive manner may be directed to leave the hearing by the Sub-Committee (including temporarily) after which, such person may submit to the Sub-Committee over the Instant messaging facilitating any information which that person would have been entitled to give orally had the person not been required to leave the meeting. If this is not possible, they may be permitted to speak at the Chair's Invitation.

The legal representative introduced the report and stated that the application submitted by the applicant requested an additional two hours of live or recorded music from 11 p.m. to 1 a.m. on Friday and Saturday nights. The application and subsequent notices had been advertised as required.

The objections received were outlined and included in Appendix 3 to the report. The Council's Community Protection Team had withdrawn their objections due to the conditions agreed with the applicant, as outlined in the report, which addressed the concerns raised.

The applicant's representative was invited to make their opening statement. The existing premises licence and the variation application submitted were referenced. The applicant had met with the Community Protection Team following receipt of their objections, with four draft conditions agreed in response. The noise management plan was highlighted, with decibel meters having been placed in the premises outside area so that the noise level could be monitored consistently and recorded. These records could be made available to the licensing authority if requested.

In preparation of the application's submission, the applicant had applied for six Temporary Event Notices which were used from the 24 September 2021. The noise level was set in line with the government's Covid-19 guidance and no comments or complaints had been received.

Mr Thomas referenced each individual objection received and stated that many of these had been submitted by individuals that were either employees, or personally connected to employees of a neighbouring premises called The Ashes and could have been commercially motivated and vexatious. Mr Thomas further stated that whilst some of the objections referred to the licensing objectives, there were no particular comments, explanations or incidents referenced that the applicant could address to provide reassurance of the actions being taken to ensure the promotion of the licensing objectives. The applicant would continue to work alongside neighbouring premises to promote these objectives.

The lack of objections from 'responsible authorities' such as Kent Police was reiterated in support of the applications appropriateness, alongside the numerous venues operating locally which remained open after 1 a.m.

In response to the comments made by the applicant's representative, the Council's legal representative stated that there was no specific requirement on a member of the public's proximity to a premises when submitting an objection. The suitability of the objections received had already been considered as part of the administrative process in organising a Sub-Committee hearing and the relevant legislation was referenced. If the objections had been considered vexatious or invalid, then the objectors would have been informed.

In response, Mr Thomas reiterated their view that the objections were not suitable for consideration, but that they wished for the application to be considered on its suitability in relation to the licensing objectives. Due to technical difficulties, there had been a delay in the additional documentation being provided to the Sub-Committee.

The legal advisor stated that consideration of the application was suitable, however the meeting was adjourned between 10.51 a.m. to 11.01 a.m. as the Sub-Committee wished to further consider the statements made in relation to the objections received.

Following the meetings recommencement, Mr Thomas reiterated that they wished for the application to be considered on its suitability in relation to the licensing objectives.

In response to questions from the panel, Mr Thomas confirmed that the noise level agreed with the Council's Community Protection Team had been 'locked in' to the sound management equipment. The sound engineer was the only person able and authorised to increase the volume rather than the premises staff, and only once a written request had been made. The Assistant Manager had lowered the music's volume when

necessary. The pedestrian walkway between the outside seating and the wall was two metres.

The applicant stated that the premises' phone number was available on multiple platforms and was operational during the evening, which could be used by residents also. Before an event, leaflets could be distributed within the local town centre area to ensure residents were informed.

Mr Thomas was invited to make their closing statement on behalf of the applicant and reiterated the importance of the promotion of the licensing objectives and the absence of objections from responsible authorities.

The Chairman advised that the Sub-Committee would retire for deliberation with the legal advisor present. Due to technical difficulties, the Democratic Services Officer was in attendance for the deliberations to ensure proper communication between the Sub-Committee and the Legal Advisor could be achieved.

The meeting was adjourned between 11.30 a.m. to 12.15 p.m.

The Sub-Committee returned and the Chair stated that the application had been granted, subject to the inclusion of the conditions agreed between the applicant and the Council's Community Safety Team. The reasons contributing to the decision were outlined.

It was confirmed that a written decision notice would be provided within five working days. Parties were reminded of the right of appeal to the Magistrates Court.

The meeting closed at 12.17 p.m.

RESOLVED: That the Sub-Committee's decision and reasons be provided within the Notice of Determination attached as an Appendix to the minutes.

LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

NOTICE OF DETERMINATION

Application Ref No: 21/02337/LAPRE

Applicant:	Mr Christopher Dyer
Regarding	**PREMISE LICENCE (VARIATION)** THE ZOO, 10 – 11 MARKET BUILDINGS, MAIDSTONE, KENT, ME14 1HP
Date(s) of hearing:	2nd November 2021
Date of determination:	2nd November 2021
Committee Members:	Councillor Mr Garten (Chairman), Councillor Naghi and Councillor Mrs Joy

Legal Advisor in attendance at hearing: Mr Robin Harris

Democratic Services Officer in attendance at hearing: Miss Oliviya Parfitt

Online Meeting Facilitator: Miss Oliviya Parfitt

Licensing Officer in attendance at hearing: None

This was an application for:

☑ Variation

for a

☑ Premises Licence

A: Representations, evidence and submissions:

The Committee considered the representations, evidence and submissions of the following parties:

Applicant

Name: Mr Christopher Dyer
Legal Representative: Mr Stephen Thomas

Witnesses: (Noise expert) Adam Brown and (Assistant Manager) Rebecca Davis

Responsible Authorities

Name: Maidstone Borough Council Community Protection Team made a representation which was subsequently withdrawn following proposed conditions being agreed

Other Persons

Name: Ana Brjan, Sara Mecaj, Kate William, Arber Hassani, Charles Mann and Kay Ince

Representations considered in the absence of a party to the hearing:

N/A

B: Consideration of the Licensing Act 2003, the Guidance under s. 182 of the Act and the Statement of Licensing Policy of Maidstone Borough Council

The Committee has taken into account the following provisions of the Licensing Act 2003 and the Regulations thereto:

Section 4 which relates to the licensing objectives;
Sections 34 - 36 which relate to the variation of a premises licence;

The Committee has taken into account the following provisions of the Guidance under section 182 of the Act:

Chapter 2 which relates to the licensing objectives
Chapters 8 & 9 which relate to premises licences & determinations
Chapter 10 which relates to conditions attached to licences;

The Committee has taken into account the following provisions of its Statement of Licensing Policy:
Chapter 17.9 which relates to prevention of crime and disorder
Chapter 17.16 which relates to the promotion of public safety

Chapter 17.19 which relates to the prevention of nuisance
Chapter 17.23 which relates to the protection of children from harm.

The Committee has decided to depart from the guidance under section 182 of the Act and or the statement of licensing policy for the following reasons:

N/A

C: Determination:

The Committee has decided to:

- Grant the application as applied for. For clarity, this includes the conditions that were agreed with the Community Protection Team prior to the hearing.

Reasons for determination:

Prevention of Crime and Disorder
Reasons (state in full):

The Sub-Committee noted that Kent Police had not made a representation and therefore gave little weight to representations that indicated Police presence was regularly required at the premises.

The Sub-Committee had regard to the written and oral submissions but were satisfied that the operating schedule, with the existing conditions, was sufficient to promote this licensing objective in the light of the variation being requested.

Public Safety
Reasons (state in full):

The Sub-Committee had regard to the written representations which included concerns centred around the potential of this variation to increase parking issues and impede emergency access.

The Sub-Committee noted that no responsible authority had made a representation in respect of this licensing objective.

The Sub-Committee were satisfied that the existing operating schedule and conditions was sufficient to promote this licensing objective in the light of the requested variation.

Prevention of Public Nuisance
Reasons (state in full):

The Sub-Committee noted that conditions had been agreed with the Maidstone Borough Council Community Protection Team, having worked with a sound expert and considered appropriate sound levels.

Having regard to the received written representations the Sub-Committee noted that no specific evidence, for example. dates of incidents were provided. The panel noted that the police did not make any representation. Comments from other persons appeared generic and duplicated.

The Sub-Committee were satisfied that the operating schedule as amended by the conditions agreed with the Maidstone Borough Council Community Protection Team was sufficient to promote this licensing objective.

Protection of Children from Harm
Reasons (state in full):

The Sub-Committee noted that there were no representations under this licensing objective and were therefore satisfied that the operating schedule and existing conditions were appropriate and proportionate to promote this licensing objective.

PRINT NAME (CHAIRMAN): COUNCILLOR Mr GARTEN

Signed [Chairman]: A copy of the original document is held on file

Date: ___ November 2021