

Borough Council of
**King's Lynn &
West Norfolk**



LICENSING COMMITTEE - SUB-COMMITTEE HEARING

Café by the Tree,
58 London Road,
King's Lynn
PE30 5QH

Agenda

Tuesday 29th January 2013
1.30pm

VENUE:
Committee Suite
King's Court
Chapel Street
King's Lynn
Norfolk, PE30 1EX



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Borough Council of
**King's Lynn &
West Norfolk**



King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX.
Telephone: 01553 616275
Fax: 01553 691663

My Ref: RAE/LC
Please ask for: Rachael Edwards
Direct Dial: (01553) 616275
Email: rachael.edwards@west-norfolk.gov.uk

17th January 2013

Dear Member

Licensing Sub-Committee Hearing – Tuesday 29th January 2013

You are invited to attend a meeting of a Licensing Sub-Committee to commence at **1.30pm on Tuesday 29th January 2013** in the **Committee Suite, King's Court, Chapel Street, King's Lynn, Norfolk** to consider the business shown below.

Yours sincerely,
Chief Executive

AGENDA

1. To consider an application for the grant of a Premises Licence in respect of Café by the Tree, 58 London Road, King's Lynn, PE30 5QH

Papers attached as follows:-

- (a) Procedure that will be followed at the hearing – (pages 1-3)
- (b) Report of the Licensing Manager under the Licensing Act 2003 (pages 4-14)
- (c) Appendix One – Copy of the Application Form (pages 15-28)
- (d) Appendix Two – Letter of objection received 9th January 2013 (page 29)
- (e) Appendix Three – Premises Plan (page 30)
- (f) Appendix Four – Location Plan (page 31)

To: Panel Members – Councillor Roy Groom, Councillor Marcus Hopkins and Councillor Colin Sampson

Appropriate Officers – Rachael Edwards and John Gilbraith

Legal Advisor

All relevant parties

Procedure for Determining Licensing Act 2003 Cases

The hearing will be held in public. However, the Borough Council may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public. The hearing is not adversarial but an examination of the facts by the Members of the Committee. All participants must be courteous at all times. All parties will be given equal maximum time which is normally 15 minutes each, in total. Any person may apply for longer time if they immediately notify the Borough Council upon receipt of the Notice of the Hearing and in exceptional circumstances, the Borough Council may extend the maximum time allowed to all parties if the complexity of the application demands. In the event that there are a large number of objections to a particular application, the Borough Council may ask an appropriate number of representatives or a single representative to put forward their views.

Introductions

1. The **Chairman** of the Committee should read out a statement declaring under which capacity the Committee is sitting.

This Committee is sitting to consider matters under the Licensing Act 2003.

2. The **Chairman** will introduce himself and the Members of the Committee.
3. The **Chairman** will then introduce and explain the respective roles of
 - (i) the Democratic Services Officer
 - (ii) the Officer representing the Licensing Authority (i.e. Licensing Manager)
 - (iii) the Legal Advisor to the Committee
4. **The Chairman** should invite all those present to introduce themselves and ask them to indicate if they wish to speak during the hearing.
5. Each party will be asked by the **Chairman** for a time estimate for the presentation of his/her/body's case. (Agreement on the length of time given for each speaker is at the discretion on the Chairman).

The Application for a Premises License

6. The **Licensing Manager** explains the procedure that will be followed at the meeting.
7. The **Licensing Manager** outlines the premises application to the Committee by presenting the report referring to any relevancy to Licensing Policy and Statutory Guidance.
8. The **Licensing Manager** will invite questions from all parties to clarify the content of the Licensing Officer's report.

The Applicant's Case

9. The **Licensing Manager** then invites the Applicant or his representative to make their case. Witnesses may be called but each will be subject to separate questioning (see below).

Questions

10. Once the Applicant has presented their case, the **Licensing Manager** invites questions to the Applicant or his representative from
 - (i) the Responsible Authorities (or their representative)
 - (ii) other persons (or their representatives)
 - (iii) Members of the Committee.

11. The **Licensing Manager** will invite questions to the witnesses from the

- (i) the Responsible Authorities (or their representative)
- (ii) other persons (or their representatives)
- (iii) Members of the Committee.

Questions should be relevant to the application and repetition will be discouraged.

The Responsible Authorities Case

12. The **Licensing Manager** then invites the Responsible Authorities (or their representative) to make their case. Witnesses may be called but each will be subject to separate questioning (see below).

Questions

13. Once the Responsible Authorities has presented their case, the **Licensing Manager** invites questions to the Responsible Authorities (or their representative) from the

- (i) the applicant (or their representative)
- (ii) other persons (or their representatives)
- (iii) Members of the Committee.

14. The **Licensing Manager** will invite questions to the witnesses from the

- (i) the applicant (or their representative)
- (ii) other persons (or their representatives)
- (iii) Members of the Committee.

Other Persons

15. Each of the other persons or their representatives wishing to address the Committee may do so in an order determined by the **Licensing Manager**. They too must be willing to be questioned by other parties in the same order. Local Objectors may not however question each other. Questions should be relevant to the application and repetition will be discouraged.

This will operate as follows:

- each party will present his/her/body's case
- each party's witnesses (if any) will give evidence in support of the party's case
- firstly, each party and, secondly, their witnesses may be questioned by other parties, prior to questioning by Members of the Committee.

16. The applicant (or their representative) and the Responsible Authorities will be invited to ask relevant questions of those parties (or the parties' representatives).

Summing Up

17. The **Licensing Manager** then invites the Responsible Authorities and other parties (or their representative) to sum up their case. They may comment upon what has been said but no new evidence should be introduced. Each party will be allowed 5 minutes to sum up.

18. The **Licensing Manager** then invites the applicant (or their representative) to sum up their case. They may comment upon what has been said but no new evidence should be introduced. They also will be allowed 5 minutes to sum up.

Reaching and Making a Decision

19. **The Chairman** will ask the Council's Legal Advisor to address the Committee on any outstanding matters.
20. The **Chairman** will then thank all those who have spoken and invite the Committee to retire to consider the application, accompanied by the Legal Advisor and Democratic Services Officer (who will take no part in the decision).
21. The Committee will then debate the case presented to them at the hearing and will seek to reach a decision and reasons for their decision.
22. Once a decision has been made, the Committee (and relevant officer/Legal Advisor) will return back in to the room and **the Chairman** will invite the **Legal Advisor** to announce in public any legal advice he/she has given in private.
23. **The Chairman** will read out the decision and the reasons for the decision (unless the Committee is unable to reach a determination at the conclusion of the hearing).
24. **The Chairman** will explain that all parties will be notified of the outcome of the decision and reasons for the decision in writing.
25. If the Committee is unable to reach a decision, the **Chairman** will explain that all parties will be notified as soon as possible (but within 5 working days) of the decision and the reasons for such.

NOTE

A decision may be deferred to:-

1. Receive further documentation referred to in the meeting
 2. Enable a site visit to take place
 3. Invite the Applicant or his representative to appear if they had not done so at the meeting (only once)
- No further debate may be heard on further documentation or at a site visit
 - Adjournments should generally be granted if to refuse would deny applicant a fair hearing.

Borough Council of King's Lynn & West Norfolk

Report to Licensing Sub-Committee under the Licensing Act 2003

Date of Hearing: 29th January 2013

Application for Grant of a Premises Licence

- Café by the Tree, 58 London Road, King's Lynn, PE30 5QH

Introduction

1. A premises licence is required under the Licensing Act 2003 (the 'Act') for the sale of alcohol, regulated entertainment or for the provision of late night refreshment (i.e. the supply of hot food and drink between 11pm and 5am). The four licensing objectives to be considered when determining the application, and relevant representations, are:

- the prevention of crime & disorder,
- public safety,
- the prevention of public nuisance, and
- the protection of children from harm

The Application

2. Mrs Lolita Dambrauskiene has made an application under Section 17 of the Act for the licensable activity of the 'sale of alcohol by retail'. A copy of the application is attached at Appendix 1 and if granted would allow the Café by the Tree to operate as follows:

<u>Licensable Activity</u>	<u>Days</u>	<u>Times</u>
Sale of Alcohol by Retail: (For consumption on the premises only)	Monday to Thursday:	5pm to 9pm
	Friday:	5pm to 11pm
	Saturday:	12 noon to 11pm
	Sunday:	12 Noon to 9pm

Mandatory Conditions

3. The premises licence, if granted would be subject to the following mandatory conditions:

- (a) Under Section 19(2) of the Act, no supply of alcohol shall be made under this premises licence at a time when there is no designated premises supervisor in respect of the premises licence, or at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- (b) Under Section 19(3) of the Act every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

- (c) In relation to the sale of alcohol, the responsible person shall take all reasonable steps to ensure that staff do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. An irresponsible promotion means an activity carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children.
- (d) The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
- (e) The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
- (f) The premises licence holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. This policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
- (g) The responsible person shall ensure that where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;

And that customers are made aware of the availability of these measures.

Conditions Consistent with the Operating Schedule

4. The licence, if granted would be subject to the following conditions which are consistent with the operating schedule:

- (a) The sale of alcohol shall only take place when sold as ancillary to the provision of a main meal and that meal shall be for consumption on the premises. Notices to that effect will be displayed within the premises.
- (b) No sale of alcohol shall take place unless there is at least one personal licence holder present on the premises at the time of sale.

- (c) There must be clear and legible polite notices displayed at exits and other circulatory areas requesting patrons to leave the premises having regard to the needs of local residents.

Representation from Responsible Authorities

Section 13(4) of the Act defines the 'Responsible Authorities' as the statutory bodies that must be sent copies of an application. Representations made must relate to the licensing objectives.

- 5. There are no representations from any of the 'responsible authorities' to consider.

Representations from 'Other Persons'

As well as responsible authorities, any other person can play a role in a number of licensing processes under the Act. This Includes any individual, body or business that are entitled to make representations to applications. Representations made must relate to the licensing objectives.

- 6. There is one representation from a local resident to consider. A copy of this letter is attached to this report at Appendix 2.

Notices

- 7. The applicant is responsible for advertising the application by way of a notice in the specified form at the premises for not less than 28 consecutive days and in a local newspaper. The Public Notice appeared in the Lynn News on Tuesday the 18th December 2012 and should have been displayed on the premises until the 9th January 2013.

Plans

- 8. A plan of the premises is attached at Appendix 3 and a location plan is attached at Appendix 4.

Borough Council of King's Lynn & West Norfolk's Licensing Policy

- 9. The current Statement of Licensing Policy was approved by full Council on the 25th November 2010 and the following extracts may be relevant to this application:

3.0 Fundamental principles

- 3.1 The 2003 Act requires that the Council carries out its various licensing functions so as to promote the following four licensing objectives:

- (a) the prevention of crime and disorder,
- (b) public safety,
- (c) the prevention of public nuisance, and
- (d) the protection of children from harm.

- 3.2 Nothing in this 'Statement of Policy' will:

- (a) undermine the right of any individual to apply under the terms of the 2003 Act for a variety of permissions and to have any such application considered on its own merits;
 - (b) override the right of any person to make representations on an application.
- 3.3 Every application will be dealt with impartially and on its individual merits. The Borough Council will not refuse to grant or vary an application unless it has received a representation from a responsible authority, such as the police or an environmental health officer, or an interested party, such as a local resident or local business, which is a relevant representation.
- 3.4 Licensing is about regulating licensable activities on licensed premises and any conditions that are attached to premises licences or club premises certificates will be focused on matters which are within the control of the individual licensee or club, i.e. the premises and its vicinity.

18.0 Conditions

- 18.1 The Borough Council will not impose conditions unless it has received a representation from a responsible authority, such as the police or an environmental health officer, or an interested party, such as a local resident or local business, which is a relevant representation, or is offered in the applicant's Operating Schedule. Any conditions will be proportional and necessary to achieve the Licensing Objectives.

Guidance Issued Under Section 182 of the Licensing Act 2003

Under Section 4 of the Act, Licensing Authorities must have regard to guidance issued under Section 182. The current Guidance was issued by the Home Office in October 2012 and offers advice to Licensing authorities on the discharge of their functions under the Act.

- 10. The following extracts may be relevant to this application and assist the sub-committee:

Licence Conditions – General Principles

- 1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will”, is encouraged. Licence conditions:
 - must be appropriate for the promotion of the licensing objectives;
 - must be precise and enforceable;
 - must be unambiguous and clear in what they intend to achieve;
 - should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
 - must be tailored to the individual type, location and characteristics of the premises and events concerned;
 - should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;

- should not replicate offences set out in the 2003 Act or other legislation;
- should be proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format.

Each application on its own merits

1.17 Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

Public Nuisance

2.18 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

2.19 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

2.20 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors

and windows are kept closed after a particular time, or more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues.

- 2.21 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.22 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late-evening or early-morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise immediately surrounding the premises may also prove appropriate to address any disturbance anticipated as customers enter and leave.
- 2.23 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.24 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.

Other Persons

- 8.12 As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition, these persons may themselves seek a review of a premises

licence. Any representations made by these persons must be ‘relevant’, in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious. In the case of applications for reviews, there is an additional requirement that the grounds for the review should not be considered by the licensing authority to be repetitious. Chapter 9 of this guidance (paragraphs 9.4 to 9.10) provides more detail on the definition of relevant, frivolous, vexatious and repetitious representations.

Determining Applications

9.1 When a licensing authority receives an application for a new premises licence or an application to vary an existing premises licence, it must determine whether the application has been made in accordance with section 17 of the 2003 Act, and in accordance with regulations made under sections 17(3) to (6), 34, 42, 54 and 55 of the 2003 Act. It must similarly determine applications for the grant of club premises certificates made in accordance with section 71 of the 2003 Act, and in accordance with regulations made under sections 71(4) to (7), 84, 91 and 92 of the 2003 Act. This means that the licensing authority must consider among other things whether the application has been properly advertised in accordance with those regulations.

Where no Representations are Made

9.2 A hearing is not required where an application has been properly made and no responsible authority or other person has made a relevant representation. In these cases, the licensing authority must grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the 2003 Act. This should be undertaken as a simple administrative process by the licensing authority’s officials who should replicate the proposals contained in the operating schedule to promote the licensing objectives in the form of clear and enforceable licence conditions.

Where Representations Are Made

9.3 Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant, (see paragraphs 9.4 to 9.10 below) the licensing authority’s discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.10 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

Relevant, Vexatious and Frivolous Representations

9.4 A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a

representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

- 9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.
- 9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 9.7 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority's corporate complaints procedure. A person may also challenge the authority's decision by way of judicial review.
- 9.9 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.

Hearings

- 9.33 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.

- 9.34 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
- the steps that are appropriate to promote the licensing objectives;
 - the representations (including supporting information) presented by all the parties;
 - this Guidance;
 - its own statement of licensing policy.
- 9.35 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety.
- 9.36 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities in the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information.

Determining Actions That are Appropriate for the Promotion of the Licensing Objectives

- 9.38 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case by case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 9.39 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 9.40 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing

objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

Consistency with Steps Described in the Operating Schedule

10.6 The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.

10.7 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence or certificate in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder or club must be clear to the licence holder, club, enforcement officers and the courts.

Imposed Conditions

10.8 The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.

10.9 It is possible that, in certain cases, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions are appropriate to promote the licensing objectives.

Proportionality

10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case by case basis and standardised conditions which ignore these individual aspects should be avoided. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are

valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

Determination

11. Having regard to the representation received, the Licensing Sub-Committee are requested to consider the application, this report and take such steps as it considers appropriate for the promotion of the licensing objectives. These steps are:

- a) To grant the application under the terms and conditions applied;
- b) To grant the application with conditions that the Sub-Committee considers appropriate for the promotion of the licensing objectives;
- c) To reject all or part of the application.

12. The Sub-Committee are reminded that full reasons for its decision must be given as both the applicant and objector have a right of appeal against that decision to the Magistrates' Court.

John Gilbraith

Licensing Manager
Environmental Health & Housing
17th January 2013

Appendixes:

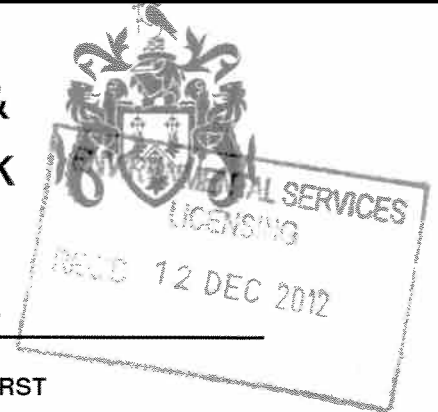
1. Copy of Application.
2. Letter of Objection received 9th January 2013.
3. Premises Plan.
4. Location Plan.

Background Papers:

1. The Licensing Act 2003
2. Borough Council's Statement of Licensing Policy (25 November 2010)
3. Guidance issued under Section 182 of the Licensing Act 2003 (October 2012)

Licensing
Environmental Health & Housing
Borough Council of King's Lynn & West Norfolk
King's Court
Chapel Street
King's Lynn, PE30 1EX
Tel: 01553 616600
Email: ehlicensing@west-norfolk.gov.uk
www.west-norfolk.gov.uk

Borough Council of
**King's Lynn &
West Norfolk**



Licensing Act 2003
Application for a Premises Licence

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

Once completed, send your original applications back to us at:

- **The Licensing Team**, Environmental Health & Housing , Borough Council of King's Lynn and West Norfolk, King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX. ✓
- and copies to the following:-
- **Norfolk Constabulary Licensing Team**, 4th Floor Vantage House, Fishers Lane, Norwich, Norfolk, NR2 1ET. ✓
- **Fire Safety Office**, Norfolk Fire Service Western Area, Kilhams Way, King's Lynn, PE30 2HY ✓
- **Norfolk Children's Safeguarding Board**, Room 60, Lower Ground, County Hall, Martineau Lane, Norwich, NR1 2DH ✓
- **Norfolk Trading Standards**, Consumer Operations Manager, Norfolk County Council Trading Standards, County Hall, Martineau Lane, Norwich, NR1 2UD ✓
- **Planning**, Borough Council of King's Lynn and West Norfolk, King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX ✓
- **Health & Safety**, Environmental Health & Housing , Borough Council of King's Lynn and West Norfolk, King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX ✓
- **Community Safety & Neighbourhood Nuisance**, Environmental Health & Housing , Borough Council of King's Lynn and West Norfolk, King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX ✓
- **Public Health Director**, Norfolk County Council, County Hall, Martineau Lane, Norwich, NR1 2DH ✓

I / We LOLITA DAMBRAUSKIENE
(insert name(s) of applicant(s))

apply for a premises licence under Section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making the application to you as the relevant licensing authority in accordance with Section 12 of the Licensing Act 2003.

Part 1 – Premises Details

Name, postal address of premises or, if none, ordnance survey map reference, or description <u>CAFE BY THE TREE</u> <u>38 LONDON ROAD, KING'S LYNN, NORFOLK</u>	
Post town: <u>KING'S LYNN</u>	Postcode: <u>PE30 5QH</u>

Telephone number at premises (if any):

Non-domestic rateable value of premises:

£ 7,700 (Fund B)

Part 2 – Applicant Details

Please state whether you are applying for a premises licence as:

- Please tick yes
- a) an individual or individuals* please complete section (A)
 - b) a person other than an individual*
 - 1. as a limited company please complete section (B)
 - 2. as a partnership please complete section (B)
 - 3. as an unincorporated association or please complete section (B)
 - 4. other (for example a statutory corporation) please complete section (B)
 - c) a recognised club please complete section (B)
 - d) a charity please complete section (B)
 - e) the proprietor of an educational establishment please complete section (B)
 - f) a health service body please complete section (B)
 - g) a person who is registered Under Part 2 of the Care Standards Act 2000(c14) in respect of an independent hospital please complete section (B)
 - h) the chief officer of a police force in England and Wales please complete section (B)

*If you are applying as a person described in (a) or (b) please confirm:

- please tick yes
- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
 - I am making the application pursuant to a
 - statutory function or
 - a function discharged by virtue of Her Majesty's prerogative

(A) Individual Applicants (fill in as applicable)

Mr Mrs Miss Ms Other title
(e.g. Rev)

Surname

DAMBRAUSKIENE

First names

LOLITA

I am 18 years old or over

please tick yes

Current postal address If different from premises address	
---	--

Post Town:	KING'S LYNN	Post Code:	
------------	-------------	------------	--

Daytime telephone number:	
---------------------------	--

Email address (optional):	
---------------------------	--

Second Individual Applicant (if applicable)

Mr Mrs Miss Ms Other title
(e.g. Rev)

Surname

First names

I am 18 years old or over

please tick yes

Current postal address If different from premises address	
---	--

Post Town:		Post Code:	
------------	--	------------	--

Daytime telephone number:	
---------------------------	--

Email address (optional):	
---------------------------	--

(B) Other Applicants

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example, partnership, company, unincorporated association etc)
Telephone number (if any)
E-mail address (optional)

Part 3 – Operating Schedule

When do you want the premises licence to start?

10 / 01 / 2013

If you wish the licence to be valid only for a limited period, when do you want it to end?

..... / /

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

--

Please give a general description of the premises (please read guidance note 1)

CAFÉ - INTERNATIONAL MENU - MAXIMUM
COVERS 20. SALE OF ALCOHOL AS
ANCILLARY TO A MEAL.

What licensable activities do you intend to carry on from the premises?

Provision of regulated entertainment

please tick ✓ yes

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment
(if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performance of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling
within (e), (f) or (g) (if ticking yes, fill in box H)

Provision of late night refreshments

(if ticking yes, fill in box I)

Sale by retail of alcohol

(if ticking yes, fill in box J)

In all cases complete boxes 'K', 'L' & 'M'

A

Plays Standard days and timings (please read guidance note 6)			Will the performance of a play take place indoors or outdoors or both – please tick ✓ (please read guidance note 2)	Indoors		
Day	Start	Finish		Outdoors		
Mon			Please give further details here (please read guidance note 3)	Both		
Tue						
Wed				State any seasonal variations for performing plays (please read guidance note 4)		
Thur						
Fri				Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat						
Sun						

B

Films Standard days and timings (please read guidance note 6)			Will the exhibition of film take place indoors or outdoors or both – please tick ✓ (please read guidance note 2)	Indoors		
Day	Start	Finish		Outdoors		
Mon			Please give further details here (please read guidance note 3)	Both		
Tue						
Wed				State any seasonal variations for the exhibition of films (please read guidance note 4)		
Thur						
Fri				Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat						
Sun						

C

Indoor sporting events Standard timings (please read guidance note 6)			Please give further details here (please read guidance note 3)
Day	Start	Finish	
Mon			State any seasonal variation (please read guidance note 4)
Tue			
Wed			
Thur			Non standard timings. Where you intend to use the premises at different times to those listed in the column on the left, please list (please read guidance note 5)
Fri			
Sat			
Sun			

D

A boxing or wrestling entertainment Standard timings (please read guidance note 6)			Will the boxing or wrestling entertainment take place indoors, outdoors or both – please tick ✓ (please read guidance note 2)	Indoors	
Day	Start	Finish		Outdoors	
			Both		
Mon			Please give further details here (please read guidance note 3)		
Tue			State any seasonal variation (please read guidance note 4)		
Wed					
Thur					
Fri			Non standard timings. Where you intend to use the premises at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

E

Performance of live music Standard timings (please read guidance note 6)			Will the performance of live music take place indoors, outdoors or both – please tick ✓ (please read guidance note 2)	
Day	Start	Finish	Indoors	
			Outdoors	
			Both	
Mon			Please give further details here (please read guidance note 3)	
Tue			State any seasonal variation (please read guidance note 4)	
Wed			Non standard timings. Where you intend to use the premises at different times to those listed in the column on the left, please list (please read guidance note 5)	
Thur				
Fri				
Sat				
Sun				

F

Playing of recorded music Standard timings (please read guidance note 6)			Will the playing of recorded music take place indoors, outdoors or both – please tick ✓ (please read guidance note 2)	
Day	Start	Finish	Indoors	
			Outdoors	
			Both	
Mon			Please give further details here (please read guidance note 3)	
Tue			State any seasonal variation (please read guidance note 4)	
Wed			Non standard timings. Where you intend to use the premises at different times to those listed in the column on the left, please list (please read guidance note 5)	
Thur				
Fri				
Sat				
Sun				

G

Performance of dance Standard timings (please read guidance note 6)			Will the performance of dance take place indoors, outdoors or both – please tick ✓ (please read guidance note 2)	Indoors	
Day	Start	Finish		Outdoors	
Mon			Please give further details here (please read guidance note 3)	Both	
Tue					
Wed				State any seasonal variation (please read guidance note 4)	
Thur					
Fri				Non standard timings. Where you intend to use the premises at different times to those listed in the column on the left, please list (please read guidance note 5)	
Sat					
Sun					

H

Entertainment of a similar description to that falling within (e), (f) or (g) Standard timings (please read guidance note 6)			Please give a description of the type of entertainment you will be providing:			
Day	Start	Finish	Will the entertainment take place indoors, outdoors or both – please tick ✓ (please read guidance note 2)	Indoor		
Mon				Please give further details here (please read guidance note 3)	Outdoor	
Tue			Both			
Wed			State any seasonal variation (please read guidance note 4)			
Thur						
Fri			Non standard timings. Where you intend to use the premises at different times to those listed in the column on the left, please list (please read guidance note 5)			
Sat						
Sun						

Late night refreshment Standard timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors, outdoors or both – please tick ✓ (please read guidance note 2)	Indoors	
				Outdoors	
				Both	
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon			/		
Tue					
Wed					
Thur					
Fri					
Sat					
Sun					
			Non standard timings. Where you intend to use the premises at different times to those listed in the column on the left, please list (please read guidance note 5)		

***Note: 'Late Night Refreshment' is only licensable between the hours of 11pm & 5am.**

J

Supply of alcohol Standard timings (please read guidance note 6)			Will the sale of alcohol be for consumption – please tick ✓ (please read guidance note 6)	On the premises	✓
				Off the premises	
				Both	
Day	Start	Finish	State any seasonal variation (please read guidance note 4)		
Mon	17 ⁰⁰	21 ⁰⁰	/		
Tue	17 ⁰⁰	21 ⁰⁰			
Wed	17 ⁰⁰	21 ⁰⁰			
Thur	17 ⁰⁰	21 ⁰⁰			
Fri	17 ⁰⁰	23 ⁰⁰			
Sat	12 ⁰⁰	23 ⁰⁰			
Sun	12 ⁰⁰	21 ⁰⁰			

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor (DPS)

Name: LOUTA DAMBRAUSKIENE

Address:

.....

Postcode: ..

Personal Licence number (if known): TBC

Issuing licensing authority (if known): TBC

K

Please highlight any services, activities, entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)

NONE

L

Hours premises are open to the public

Standard timings (please read guidance note 6)

Day	Start	Finish
Mon	12⁰⁰ 12 ⁰⁰	21 ³⁰
Tue	12⁰⁰ 12 ⁰⁰	21 ³⁰
Wed	12⁰⁰ 12 ⁰⁰	21 ³⁰
Thur	12⁰⁰ 12 ⁰⁰	21 ³⁰
Fri	12⁰⁰ 12 ⁰⁰	23 ³⁰
Sat	12 ⁰⁰	23 ⁰⁰
Sun	12 ⁰⁰	21 ³⁰

State any seasonal variation (please read guidance note 4)

Non standard timings. Where you intend to use the premises at different times to those listed in the column on the left, please list (please read guidance note 5)

M Describe the steps you intend to take to promote the four licensing objectives:

a) **General** – all four licensing objectives (b, c, d, e) (please read guidance note 9)

- ALCOHOL WILL ONLY BE SOLD AS ANCILLARY TO A MEAL.
- THERE WILL ALWAYS BE A PERSONAL LICENCE HOLDER ON THE PREMISES WHEN ALCOHOL IS SOLD.

b) **The prevention of crime and disorder**

- 'CHALLENGE 25' – AGE VERIFICATION SCHEME WILL BE OPERATED.
- PREMISES WILL BE SECURED AGAINST UNAUTHORISED ENTRY

c) **Public safety**

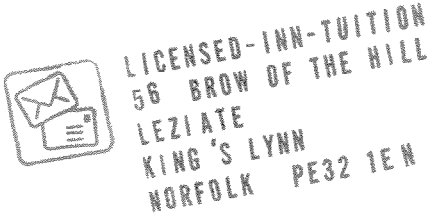
THE PREMISES WILL CONFORM TO ALL HEALTH, SAFETY & HYGIENE REQUIREMENTS

d) **The prevention of public nuisance**

NOTICES WILL BE DISPLAYED TO REMIND CUSTOMERS TO LEAVE THE PREMISES QUIETLY AND NOT CAUSE NOISE OR DISORDER.

e) **The protection of children from harm**

AGE VERIFICATION (CHALLENGE 25) WILL BE OPERATED.

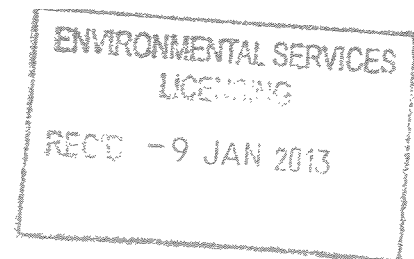
Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 13)	
Name:	Address:
PAUL BYATT	
If you prefer us to correspond with you by e-mail your email address (optional): info@licensedinn-tuition.com	

Notes for Guidance

If you are completing this form by hand please write legibly in black ink and stay within the boxes.

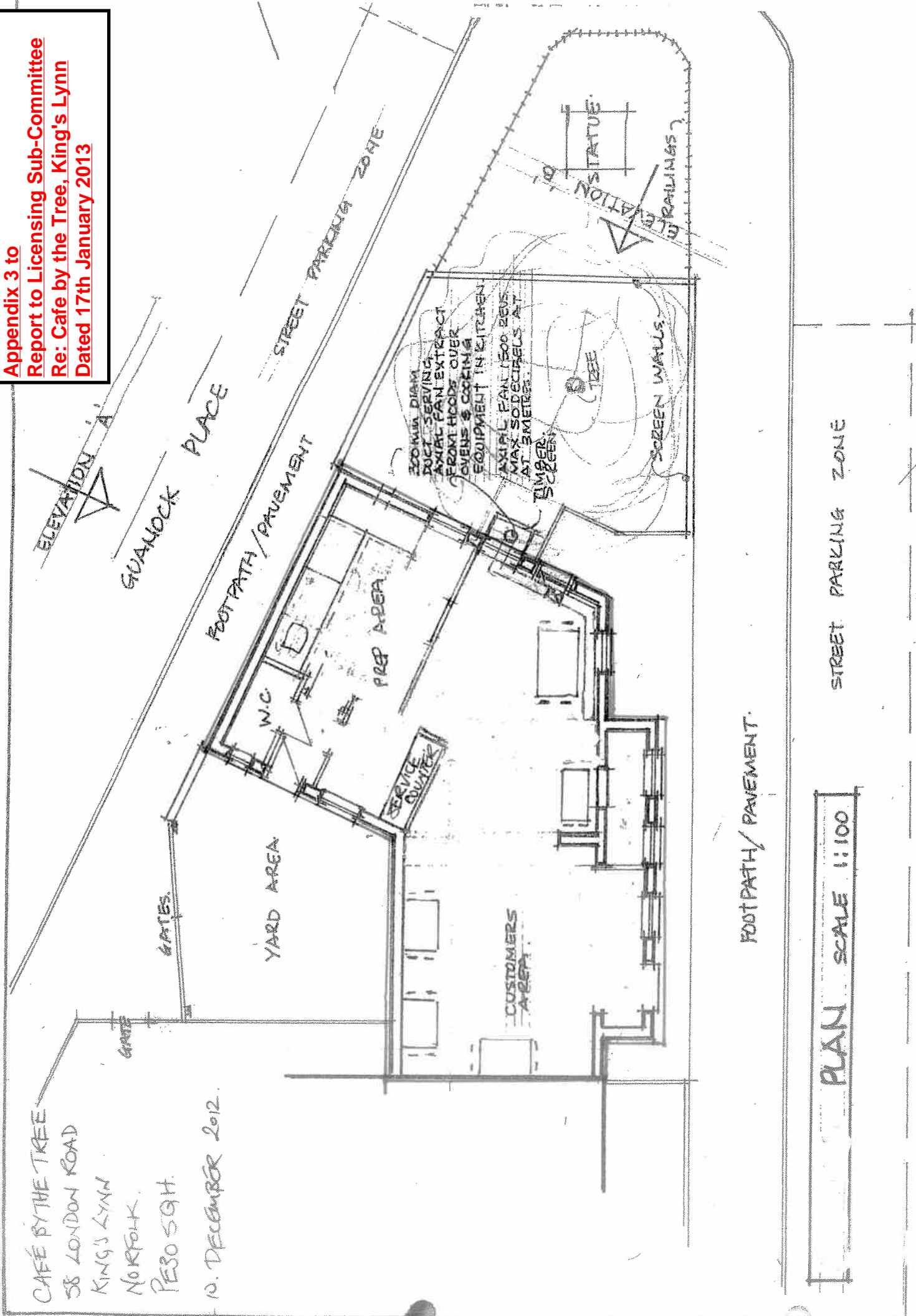
1. Describe the premises. For example the type of premises, its general situation and the layout and other information which could be relevant to the licensing objectives. Where the application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure tick indoors. Indoors may include a tent.
3. Please state type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively whether the or not music will be amplified or unamplified
4. For example (but not exclusively), where the activity will go on for an extra hour during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day i.e. Christmas Eve, New Year's Eve etc.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises please tick **on**, if you wish people to be able to purchase alcohol to consume away from the premises please tick **off**. If you wish people to be able to do both please tick **both**.
8. Please give information about anything to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups, the presence of gambling machines.
9. Please list here steps you will take to promote all four licensing objectives.
10. The application must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have authority to do so.
12. Where there is more than one applicant, both applicants or their respective agents must sign the application form
13. This is the address which we shall use to correspond with you about this application.

Dear Mrs Riches,
with reference to the request
for alcohol licence for Cafe by the tree
my reasons for being against
the sale of alcohol are as follows.
raised noise levels music and party-
ing revellers.
Drunk and disorderly behavior
(already witnessed)
urinating and vomiting under
where we live, up the doors and
into air bricks that go under
our house, this happens most
weekends, we feel the road is
quite busy and dangerous for
revellers, Plus no parking spaces.
also our garden is frequently
used as a dump for rubbish
and half eaten kebabs.
Yours Sincerely



Reference cafe by the tree
London Road,
Kings Lynn.

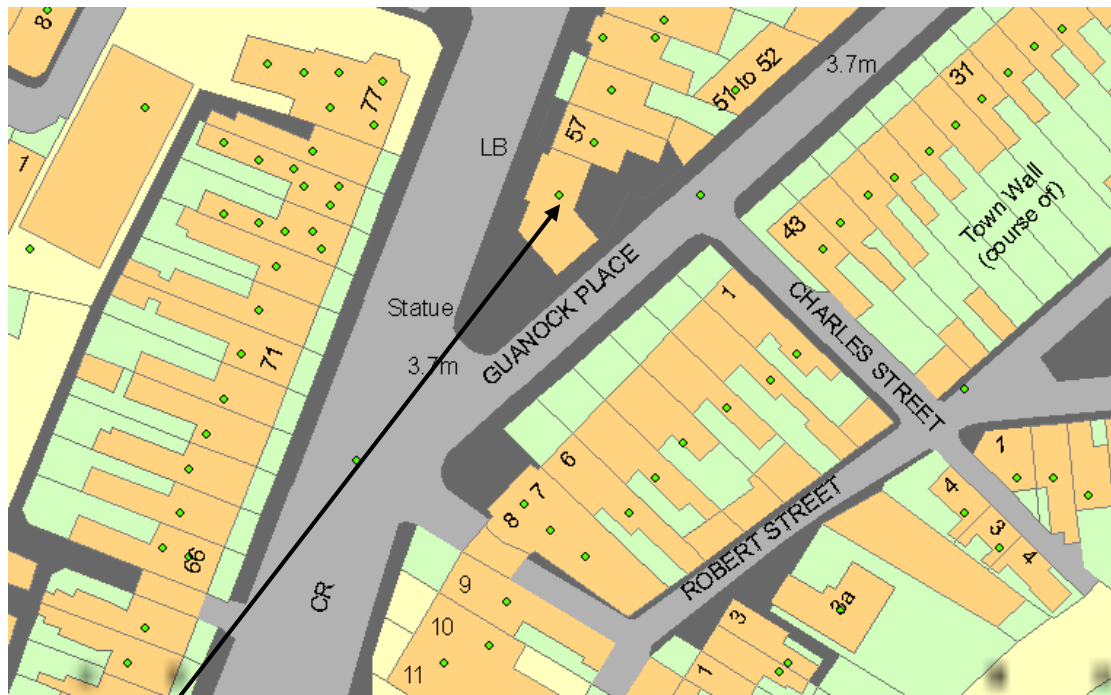
Appendix 3 to
 Report to Licensing Sub-Committee
 Re: Cafe by the Tree, King's Lynn
 Dated 17th January 2013



CAFE BY THE TREE
 58 LONDON ROAD
 KING'S LYNN
 NORFOLK
 PE30 5QH.
 12. DECEMBER 2012.

PLAN SCALE 1:100

Location Plan – Café by the Tree, London Road, King's Lynn



Café by the Tree

Scale: Approx 10m