

**BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK**

**Minutes of the Licensing Sub Committee Meeting  
held on Tuesday 30<sup>th</sup> October 2012 at 10am  
in the Wembley Room, Lynnsport, Greenpark Avenue, King's Lynn**

**PRESENT:**

Sub-Committee Members:	Councillor G Sandell (Chairman) Councillor C Manning Councillor D Tyler
Borough Council Officers:	Rachael Edwards - Senior Democratic Services Officer John Gilbraith - Licensing Manager
Legal Advisor:	Emma Duncan
Premises:	Flames Kebab, Norfolk Street, King's Lynn
Applicant:	Mr Mehmet Tasin
Applicant's Representative:	Mr Paul Byatt, Licensed Inn Tuition
Responsible Authority:	Mr Tony Grover, Licensing Officer, Norfolk Constabulary Mr Andy Owens, Senior Solicitor, Norfolk Constabulary Chief Inspector Porter, Operations Commander, Norfolk Constabulary

**1. WELCOME AND INTRODUCTIONS**

The Chairman welcomed everyone to the meeting and declared that the Sub-Committee were sitting to consider a variation application in respect of Flames Kebab, Norfolk Street, King's Lynn. He introduced the Sub-Committee Members and the Borough Council Officers and explained their roles. He also introduced the Legal Advisor, Emma Duncan. The applicant's representative, Mr Paul Byatt introduced himself and the applicant, Mr Mehmet Tasin. Mr Tony Grover, Licensing Officer, Mr Andy Owens, Senior Solicitor and Chief Inspector Porter representing Norfolk Constabulary also introduced themselves.

**2. THE PROCEDURE**

At the request of the Chairman, the Licensing Manager outlined the procedure that would be followed at the hearing and took over the proceedings.

### 3. THE APPLICATION

The Licensing Manager presented his report and explained that a premises licence was required under the Licensing Act 2003 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, were:

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

The Licensing Manager explained that Mr Mehmet Tasin had made an application under Section 17 of the Licensing Act 2003 for the licensable activities of 'late night refreshment' and 'sale of alcohol by retail'. A copy of the application was attached at Appendix 1 and if granted would allow Flames Kebab to operate as follows:

<b><u>Licensable Activity</u></b>	<b><u>Days</u></b>	<b><u>Times</u></b>
<b>Late Night Refreshment:</b>	Monday to Sunday	11pm to 4am
<b>Sale of Alcohol:</b> (For consumption both on and off the premises)	Monday to Sunday	5pm to 4am

#### **Mandatory Conditions**

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

- Under Section 19(2) of the Licensing Act 2003, 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.
- Under Section 19(3) of the Licensing Act 2003 every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- 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.

- 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).
- The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
- 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.
- 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-
- beer or cider: ½ pint;  
gin, rum, vodka or whisky: 25 ml or 35 ml; and  
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**

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

- A digital CCTV system shall be maintained in the premises and in working order at all times. Cameras are to monitor all public areas and images must be retained for a minimum of 28 days. Copies of images must be downloadable in a digital format and provided to police or authorised officers of licensing authority upon reasonable request.
- No beer or cider shall be sold on the premise which has an ABV (Alcohol by Volume) level higher than 6.5%.

- No sale of alcohol shall take place on the premise unless there is at least one personal licence holder present.

The Licensing Manager explained that Flames Kebab already held a premises licence which was granted in November 2005. This licence (WNPL005519) authorised the provision of late night refreshment only until 4am each day.

### **Representation from Responsible Authorities**

Section 13(4) of the Licensing Act 2003 defined the 'Responsible Authorities' as the statutory bodies that must be sent copies of an application. Representations made must relate to the licensing objectives.

The following comments had been received from the Responsible Authorities:

- The Norfolk Constabulary were objecting to the application under the 'Prevention of Crime & Disorder' licensing objective. A copy of their letter of objection dated the 4<sup>th</sup> October 2012 had been attached to the report at Appendix 2.
- Comments from the other responsible authorities were as follows:

<b><u>Responsible Authority</u></b>	<b><u>Comments Received</u></b>
Norfolk Fire Service	None
Norfolk Trading Standards	None
Norfolk Safeguarding Children's Board	None
Public Health	None
Planning (BCKLWN)	None
Health & Safety (BCKLWN)	None
Community Safety & Neighbourhood Nuisance (BCKLWN)	None
Licensing Authority (BCKLWN)	None

### **Representations from 'Other Persons'**

As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This included any individual, body or business that were entitled to make representations to applications. Representations made must relate to the licensing objectives.

There are no representations from 'other persons' to consider.

## **Notices**

The applicant was 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 18<sup>th</sup> September 2012 and should have been displayed on the premises until the 11<sup>th</sup> October 2012.

## **Plans**

A plan of the premises had been attached at Appendix 3 and a location plan had been attached at Appendix 4. The Licensing Manager highlighted that the location plan outlined details of the location of other premises in the vicinity and their current licensing hours.

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

The current Statement of Licensing Policy was approved by full Council on the 25<sup>th</sup> November 2010 and the following extracts may be relevant to the 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 Licensing Act 2003, Licensing Authorities must have regard to guidance issued under Section 182. The current Guidance was issued by the Home Office in April 2012 and offered advice to Licensing Authorities on the discharge of their functions under the Act.

The following extracts may be relevant to the application and assist the Sub-Committee:

**Each application on its own merits**

- 1.16 Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy where, for example, its effect on cumulative impact is relevant. 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.

**Crime & Disorder**

- 2.1 The steps which any licence holder or club might take to prevent crime and disorder are as varied as the premises or clubs where licensable activities take place. Licensing authorities should therefore look to the police as the main source of advice on these matters. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 The Government's expectation is that the police will have a key role in undertaking various tasks such as advising on the installation and monitoring of security devices such as CCTV.
- 2.16 Conditions on a premises licence are important in setting the parameters within which premises can lawfully operate. The use of wording such as "must", "shall" and "will", is encouraged. Conditions on licences must:
- be precise and enforceable;

- be unambiguous;
- not duplicate other statutory provisions;
- be clear in what they intend to achieve; and,
- be appropriate, proportionate and justifiable.

### **Representations from the Police**

9.12 In their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regards to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

### **Hearings**

9.29 Regulations made under the 2003 Act require that representations must be withdrawn 24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.

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 5 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.

### **Imposed Conditions**

- 10.12 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.

### **Proportionality**

- 10.14 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.

- 10.15 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. Consideration should also be given to wider issues such as conditions already in place that address the potential negative impact on the promotion of the licensing objectives and the track record of the business. The physical safety of those attending such events should remain a primary objective.

### **Hours of Trading**

- 10.21 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.

### **Determination**

The Licensing Manager stated that having regard to the representations received, the Licensing Sub-Committee were requested to consider the application, the report and take such steps as it considers appropriate for the promotion of the licensing objectives. These steps were:

- 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.

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

### **Questions to the Licensing Manager**

There were no questions to the Licensing Manager.

## **4. THE APPLICANT'S CASE**

Mr Byatt, representing the applicant presented his case as follows:

"I would like to thank the Committee for allowing us to present our application for a premises licence to include the sale of alcohol.

Flames Kebab is a small operation which provides late night refreshment between the hours of 1700 and 0400hrs. It has been established for about ten years and during that period has built up a loyal business base and has carried out its business diligently and responsibly. There have been no major incidents at the premises and my client has always worked very closely with responsible authorities working in partnership with them. My client is fully aware of the challenges faced with regard to the consumption of alcohol on Norfolk Street and has experience of managing many challenging encounters with individuals who have patronised his shop. In the majority of encounters the situation has been handled professionally without major incident. After a period of ten years in Norfolk Street, my client believes he is adequately experienced and qualified to deal with situations involving alcohol.

Before submitting his application my client has thought very carefully about the implications involved. He took the opportunity to discuss the application with the local licensing authority before submitting it and he was asked to speak to the Police Licensing Officer with regard to his intentions before submitting his application. The immediate response from the Police Licensing Officer was that they would lodge an objection without doubt. This was before the Police had even been given the application. The grounds for their objection was not made clear, just that they would object. My client then sought advice regarding his application from a licensing specialist who advised him that any application for the sale of alcohol would have to include robust and rigorous risk assessments, focused on the promotion and support of the licensing objectives.

My client's premises are relatively small. There is customer seating for 7 people in a service area of approximately 4m x 3m. The primary purpose of

the business is for the sale of food, which is mostly taken and eaten away from the premises. The 7 seats are mainly used by customers awaiting their orders. There has always been CCTV operating in the premises, however, my client has at great expense recently installed new digital CCTV equipment, which is fully compliant with industry standards. The majority of customers are regular customers, who have been patronising Flames for many years, my client knowing some of them on first name terms. It is fair to say that there is and has always been a very friendly rapport between the customers and management and staff.

In consideration of the challenges that might be faced with the sale of alcohol, my client has carried out a thorough risk assessment and has put forward the following steps, which he believes are reasonable and proportionate and do go a long way in promoting the licensing objectives:

1. Introduction of the Challenge 25 Age Verification Scheme
2. Updating and improving the CCTV provision, having recordings available for the police upon request.
3. Agreeing not to sell beers and ciders over 6.5% abv.
4. Alcohol will not be displayed and promoted and will be secured in a locked fridge behind the counter.
5. Always having a personal licence holder on the premises when alcohol is to be sold.

We feel that these steps are reasonable and proportionate to an operation where the main sale would be food.

The representation my client received from the police did recognise some of my client's steps, however, it did include two recommendations that my client feels to be disproportionate:

1. Amending the timings for the sale of alcohol to end at midnight.
2. Having at least one door supervisor to be on duty at the premises from 2am and the close of business on Friday nights, Saturday nights, Bank Holidays, Christmas Day and New Year's Eve.

We feel that these conditions are disproportionate and actually need clarification.

We can understand the police's motivation in having additional security outside the premises but we believe that in doing so this could lead to a negative impression of my client's business. Who would want to frequent a food outlet that has security outside?

Employing door supervisors at a food outlet may actually lead to antisocial behaviour at the premises. An example would be refusing entry to a person who may appear to be drunk who only wishes to purchase food. This would almost certainly lead to a misunderstanding and potential conflict (as drawn to our attention in the police's representation, Section 182 guidance point 2.7 states "...door supervision may be appropriate to ensure that people who

are drunk, drug dealers or people carrying firearms do not enter the premises". This particular section would almost certainly apply to a premises where the main purpose is for the sale and consumption of alcohol on the premises i.e. bar or nightclub.

Taking into consideration our application and the representations/recommendations from the police, we would like to emphasise that this is primarily a "take-away" operation that sells food. We understand the concerns shown by the police and we feel it prudent that we offer to amend our application by offering that the conditions be amended to:

"the sale of alcohol for consumption away from the premises as ancillary to a meal as opposed to consumption with just alcohol".

This condition will then prevent the consumption on the premises. My client and his staff are fully aware that the sale of alcohol to a person who appears to be drunk is an offence.

The police have cited examples of where premises have voluntarily adopted measures whereby door staff have been available during vulnerable times to assist the licence holders. We would like to point out to the Licensing Committee that the licensed premises "Ali Meze Bar" which is located up the street from Flames, although regarded as a take away, has seating provision for approximately 30 persons and offers an extensive dining menu and has a full stocked alcohol provision including beers, wines, ciders, spirits etc for consumption on those premises, with or without a meal.

The Police have the powers to request a review of any premises carrying out a licensable activity. These reviews are to ensure that the premises promote the licensing objectives and the local community are protected from crime, disorder and nuisance. There have been heavy inferences to problems caused by the supply of alcohol from similar premises and yet no application to review their premises licence is evident. There have been discussions with premises licence holders in question which have led to the threat of reviews if the premises in question continue to experience crime and anti-social behaviour resulting from the sale of alcohol. We request to be given the same opportunity to demonstrate that our premises can operate responsibly without having door supervisor provision imposed upon us. We fully understand that should there be an increase in crime, disorder or nuisance resulting from the sale of alcohol, then a review could be carried out and conditions imposed to ensure the community is protected.

Finally, we would like to point out that under the Police Reform and Social Responsibility Act 2011, the local authority will be able to raise a contribution from late-opening alcohol suppliers towards policing the night-time economy. The aim is to charge for extra enforcement costs to those businesses who supply alcohol. If and when this came into force, my client will be facing this additional cost on top of his annual licence fee. Any additional costs such as paying for door security would pose an unnecessary burden on his reputable

business, a cost burden not required by other outlets competing in this highly competitive market.

We would like to thank the Committee for hearing our application and giving us the opportunity to explain our intentions and hope that the Committee will be mindful to grant the licence on the terms suggested in our statement”.

### **Questions to the applicant**

In response to a question from Chief Inspector Porter on how the applicant would deal with a customer who purchased alcohol with a meal and then gave the alcohol to someone who was already intoxicated, the applicant, Mr Tasin stated that he would not serve anyone who was already intoxicated and if necessary he would call the Police. Chief Inspector Porter questioned whether if these circumstances did arise, the applicant acknowledged that it would potentially cause a point of conflict. The applicant’s representative, Mr Byatt reiterated that the applicant would not sell alcohol to customers who were already intoxicated. Chief Inspector Porter explained that there was a concern that alcohol would get into the hands of people who were already intoxicated and that there was an expectation on the Police to deal with such matters. Mr Byatt stated that the issue was the same as that of an off-licence in that alcohol could be sold and then passed onto someone who was already intoxicated. It was not in his client’s interest to serve alcohol to such customers. He further stated that Flames Kebab had two Personal Licence Holders and that customers who were already intoxicated would not be served. Mr Byatt questioned whether the Police could provide any facts/figures in relation to a link with the sale of alcohol from other late night establishments that had led to crime and disorder offences. Chief Inspector Porter explained that the Police had prepared an analytical document in relation to the King’s Lynn Night Time Economy and Red Route Analysis which included a considerable amount of information as result of calls from members of the public. He stated that crime and disorder offences rose considerably on a Thursday, Friday and Saturday evening, compared to nights earlier in the week.

To aid Members, the Licensing Manager referred to the plans on page 33 of the Agenda and questioned the applicant as to how many customers could the customer area (as indicated on the plan) hold. Mr Tasin confirmed that including the 7 customers that could be seated on the “stools”, a total of 15/20 customers could be accommodated in the waiting area. The Licensing Manager questioned how the applicant would be able to monitor all the customers if the waiting area was full. Mr Byatt explained that CCTV was installed which monitored both the door and behind the counter. Mr Tasin confirmed that he had 4 members of staff who worked for him and during the busy times, all 4 were situated behind the counter. In response to a question from the Legal Advisor, Mr Tasin confirmed that his busiest times were between 2am and 4am after people left the local nightclubs. He further confirmed that last orders were served at 3.45am and all customers had left the premises by 4am.

In response to a question from the Chairman, Mr Byatt and Mr Tasin clarified that it was only on a Friday and Saturday night, that up to 15/20 people would be situated in the waiting area.

## **5. RESPONSIBLE AUTHORITIES CASE - NORFOLK CONSTABULARY**

Mr Owens presented the case on behalf of Norfolk Constabulary and explained that he would be calling Chief Inspector Porter as a witness. He acknowledged the concession offered by the applicant in that the sale of alcohol would be for consumption away from the premises, however the Police opposed the application under the crime and disorder licensing objective. He referred to the limited amount of customer seating in a small area (4m x 3m) which would potentially see customers "milling" in the vicinity of the premises. Mr Owens stated that takeaways were normally the last point of call for the public following a night at the many pubs or clubs. Norfolk Street was a concentrated area which raised many challenges for the Police. In terms of evidence, it was difficult for the Police to attribute any behaviour from the purchase of alcohol to a particular outlet but it was the Chief Inspector's experience, as well as his officers that policing in Norfolk Street was very difficult.

Mr Owens referred to the Section 182 Guidance (Section 9.4) which stated that "There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations.....". He also referred to Section 9.12 in relation to representations from the Police that stated "in their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective". Mr Owens acknowledged that there had been no incidents recorded at the premises involving crime and disorder but granting the licence (as applied for) would only fuel the problems.

Chief Inspector Porter was called as a witness. He explained that he had been appointed to King's Lynn since September 2010 and that when he first arrived there were a considerable number of arrests in Norfolk Street for drunk & disorderly behaviour. However a significant amount of work had been done with the pubs and clubs to improve the situation to make King's Lynn a safer place. He stated that Norfolk Street was a hot spot area for violence and anti-social behaviour.

Chief Inspector Porter stated that there were over 10 fast food outlets in the area and for every arrest, 2 officers were required to take the offender into custody which meant resources were taken off the street. He stated on a Friday, Saturday and into the early hours of Sunday morning, disorder and anti-social behaviour quadrupled in the area and that Norfolk Street was the greatest pull on his team resources. Chief Inspector Porter referred to another premises in Norfolk Street that had an alcohol licence and explained that his officers would have to stand outside the premises waiting for the venue to close to try to contain potential conflict. He explained that applying for a review of a premises licence did not offer a quick solution.

Chief Inspector Porter explained that when patrons left the pubs and clubs they had already consumed a considerable amount of alcohol. He stated that dealing with alcohol-related crime in King's Lynn was not just a problem for the police but costs the local community millions of pounds. Chief Inspector Porter stated that it was difficult to prove a link to any one individual premises as officers would need to witness the sale of alcohol to an already intoxicated person. He explained that between mid-July and October over 1000 cans and bottles had been found/confiscated. (Two photographs were circulated to Members of the Panel and the applicant). Chief Inspector Porter referred to a number of statistics explaining that these included incidents that had been reported by members of the public.

Chief Inspector Porter stated that problems could occur at the Bus Station or along the red route out of town and any more outlets selling alcohol in Norfolk Street would compound the problems.

At the request of the Legal Advisor, a copy of the report (King's Lynn Night Time Economy and Red Route Analysis) containing the facts and figures was circulated to Members of the Panel. The aim of the report was to look at the impact on the night time economy. Mr Byatt stated that he had not been given the opportunity to view the report therefore the hearing was adjourned for a period of 10 minutes in order for further copies to be provided.

On reconvening the hearing, a copy of the report was handed to the applicant. At the request of Mr Byatt, Chief Inspector Porter outlined what was termed a "red route". Mr Byatt stated that all the problems could not be contributed to Norfolk Street, problems were experienced further a field in King's Lynn. In response, Chief Inspector Porter stated that the majority problems only occurred on a Thursday, Friday and Saturday night and that there was link to the sale of alcohol and violence.

At the request of the Legal Advisor, Chief Inspector Porter went through the report (King's Lynn Night time Economy and Red Route Analysis) page by page. He explained the aim of the report was to draw back trading hours to remove the element of walking which was a large cause of anti-social behaviour and other linked crimes. The data was mostly confined to a Thursday, Friday and Saturday night as this was deemed to be the night time economy. He outlined figures for public order offences, violence, criminal damage, drugs and alcohol tagged CAD comparing the statistics on Monday night to those experienced on a Friday and Saturday evening. He explained that some calls may require a police response and would also have an impact on the ambulance service. The Chairman referred to the data, which was over a three year period highlighting the number of anti-social behaviour incidents equated to 378 per year, amounting to 7/8 incidents per week.

Chief Inspector Porter referred to the cost to society of £272,000 over the past three years of crime and anti-social behaviour along the red route leading from Norfolk Street to the Fairstead Estate. The figures ran into millions of pounds if you took the town centre as a whole.

Councillor Manning referred to the scheme that was being trailed with Norfolk Green to provide a late night bus service along the red route to Fairstead and questioned whether this was proving to be successful. Chief Inspector Porter explained that the service had been launched on 6<sup>th</sup> October for a trial period of 6 months and people would be surveyed along the route to ascertain its success.

### **Questions to Mr Grover, Mr Owens and Chief Inspector Porter**

In response to questions raised by Mr Byatt in relation to employing door supervisors, Chief Inspector Porter stated that one of the most effective measures was to employ door supervisors to aid licence holders and act as a prevention tool. He also stated that as part of the Pubwatch Scheme, licence holders worked together with the Police to tackle any anti-social behaviour/crime and disorder.

Mr Byatt questioned why no reference had been made in relation to the option to charge a late night levy. In response, Chief Inspector Porter explained that he was waiting for the Police Force to take an overall decision prior to making any reference/comments.

Mr Byatt explained that during the adjournment he had an opportunity to consult with his client and who was willing to put forward the following amendment to the application:

That sales of alcohol on and off the premises be granted up to midnight and that sales of alcohol for consumption off the premises be granted after midnight until 4am for home delivery only.

The Legal Advisor advised that at this stage the hearing should continue.

In response to a question from the Chairman, Mr Grover confirmed that as yet no review had been applied for but two premises which did have the ability to serve alcohol on their premises licence had been subject to Police intervention by the Licensing Team due to the level of incidents involving alcohol fuelled crime and anti-social behaviour. He referred to the two premises in question and explained that since intervention methods had been introduced incidents of crime and anti-social behaviour had reduced. The two premises would still be under constant monitoring.

In response to a query raised by the Licensing Manager, Mr Grover confirmed that a further 3 premises which were not takeaways were also subject to Police intervention. He explained that a review was considered to be the "last step" in the process with the Police preferring to work with licensees.

Mr Byatt questioned whether, if intervention measures were not successfully, the Police would apply for a review of a premises licence, to which Mr Grover stated it would be a consideration. Mr Byatt suggested that if his client's



application was granted without the condition of Door Supervisors, if problems were experienced, the Police would have the opportunity to apply for a review and subsequently request such a condition be attached to the licence. He stated that his client had an exemplary record and the condition was disproportionate as other fast food outlets with an alcohol licence did not have the condition. Door staff would also lower the general impression of the premises.

The Legal Advisor referred to the King's Lynn Night Time Economy report which included maps that outlined details hour by hour along the red route in relation to incidents of crime, anti-social behaviour and alcohol related incidents and questioned whether there were any specific figures in relation to the number of people that dispersed from Norfolk Street. Chief Inspector Porter explained that no specific figures were available but a report was prepared every two weeks that looked at crime and the impact on the night time economy. Norfolk Street had been a problem area for over 10 years.

The Legal Advisor questioned why more resources were not deployed along the red route. Chief Inspector Porter explained the Police had a finite amount of resource and it was considered Norfolk Street was the best place for officers to be placed to ensure early intervention. The Police worked in partnership with the licensee of pubs/clubs, Pubwatch, CCTV (at the Borough Council) and the SOS Bus to try make the area safer. The vast majority of people when leaving the various establishments in the town headed for Norfolk Street.

In response to a further question from the Legal Advisor as to the impact the applicant's particular application would have, Chief Inspector Porter explained that about 1000/1500 people would be milling around Norfolk Street when they left the pubs/clubs at closing time, similar to that of a large city centre such as Norwich. He explained that the Police were keen to work with licensees but if problems did continue at any one particular premise, a review would be applied for.

The hearing was adjourned at 11.25am in order for the applicant and the objectors to discuss the amendment proposed to the application.

## **6. SUMMING UP**

### **Responsible Authorities**

Mr Owens summed up his case and referred to page 31 of the Agenda which outlined the Conditions proposed by the Police. He explained that following discussions with the applicant and his representative the Police were happy to accept the following amendment to the application:

That sales of alcohol on and off the premises be granted up to midnight and that sales of alcohol for consumption off the premises be granted after midnight until 4am for home delivery only.

Mr Owens requested that if the Committee were minded to grant the licence, that they formally endorse Conditions 2 to 5 as outlined on page 31 of the Agenda. Condition 6 could be removed as it was no longer applicable. He stated that if felt this was a fair compromise and appropriate to address the concerns of the Chief Inspector. Mr Owens reiterated that there had been no incidents recorded at the premises involving crime or anti-social behaviour, but by attaching the proposed conditions, this should remain the case in the future.

### **Applicant**

In summing up, Mr Byatt confirmed that he was happy to endorse the proposed amendment and subsequent conditions.

## **7. OUTSTANDING MATTERS**

There were no outstanding matters that needed addressing.

## **8. REACHING A DECISION**

The Sub-Committee retired to consider their decision in private, accompanied and advised by the Legal Advisor on specific points of law and procedure and the Senior Democratic Services Officer. The Sub-Committee endorsed the proposed amendment put forward by the applicant together with the proposed conditions put forward by the Police.

## **9. DECISION**

The Panel have decided to grant the licence subject to the following conditions:

- 1) That sales of alcohol on and off the premises be granted between 5pm to midnight. That sales of alcohol for consumption off the premises be granted between midnight and 4am subject to those sales being ancillary to a substantial meal and being made by delivery to an address away from the premises.
- 2) Conditions identified on page 31 of the report relating to CCTV (Conditions 2, 3, 4 and 5) be placed on the licence.

## **REASONS**

The reason for the Panel's decision was as follows:

The prevention of crime and disorder.

The Panel had regard to the Licensing Manager's report and the representations put forward by the application and the objectors.

**Comments on the Decision**

At the invitation of the Chairman, the Licensing Manager confirmed he had no comments on the decision.

**The meeting closed at 12.25pm**