

BOROUGH COUNCIL OF KING'S LYNN and WEST NORFOLK

**Minutes of the Licensing Sub Committee Meeting
held on Friday 22nd March 2013 at 10.00am
in the Committee Suite, King's Court, Chapel Street, King's Lynn**

PRESENT:

Sub-Committee Members:	Councillor G Sandell (Chairman) Councillor C Crofts Councillor D Tyler
Borough Council Officers:	Rachael Edwards - Senior Democratic Services Officer John Gilbraith - Licensing Manager
Legal Advisor:	Cara Jordan
Premises:	Hanse House and No 1 & The Undercroft
Applicant:	Mr James Lee
Applicant's Advisor:	Mrs Kirsty Gauntley
Responsible Authorities:	Ms K Jones – Community Safety and Neighbourhood Nuisance
Other Persons who addressed the Sub-Committee:	Councillor Mrs L Bambridge Dr E Harrison Professor B Falconbridge Mr Willoughby-Ellis Mr D Pearce Rev. M Tucker

1. WELCOME AND INTRODUCTIONS

The Chairman welcomed everyone to the meeting and declared that the Sub-committee were sitting to consider premises applications in respect of the following:

1. Hanse House South Quay, King's Lynn, PE30 5GN; and
2. No 1 & The Undercroft, Hanse House, South Quay, King's Lynn, PE30 5GN

He introduced the Sub-committee Members and the Borough Council Officers and explained their roles. He also introduced the Legal Advisor, Cara Jordan. The applicant, Mr James Lee and his advisor, Mrs Kirsty Gauntley introduced themselves. Ms Katherine Jones, Community Safety

and Neighbourhood Nuisance (Borough Council) introduced herself. The “other persons”, who wished to address the Sub-Committee introduced selves.

The Chairman informed the hearing that as part of his civic duties, he had recently attended an awards presentation which had been hosted by Dr Harrison but at no time had there been any discussion in relation to the licence applications being considered.

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. However, he explained that the applicant, just prior to the meeting, had agreed and signed up to the recommended conditions put forward by the Community Safety and Neighbourhood Nuisance (CSNN) Team (outlined on page 42 and 43 of the Agenda) which were as follows:

- Provisions for regulated entertainment E and F outdoors (i.e. the inner court yard) shall only be permitted from 1000hrs to 2200hrs Monday to Saturdays and at no times on Sunday, in line with planning restrictions.
- Provisions for regulated entertainment E and F indoors to be permitted for the following hours:

Monday to Thursday	1000 to 2300 hours
Friday	1000 to midnight
Saturday	1000 to midnight
Sunday	1000 to 2300 hours

The Licensing Manager also explained that it would be a requirement for the applicant to provide a detailed noise management plan within 28 days from the start date of the licence and for it to be agreed by the CSNN Team from the Borough Council. The noise management plan would include an agreed noise level that would be measured between the hours of 2300 and 2400 hours on a Friday or Saturday night and would be expressed as a LAeq5min at monitoring locations agreed by the Council.

The Licensing Manager therefore explained that subject to ratification by the Sub-Committee, these conditions would be attached to the licence and questioned, whether in light of this, any of the “other persons” wished to withdraw their objections. The “other persons” confirmed that they still had concerns with the applications and therefore wished that their objections remain and that the hearing continued.

Mr Willoughby-Ellis referred to the report published by Defra in May 2006 – Noise from Pubs and Clubs (Phase II) which extended the provisions of the Noise Act 1996 to include licensed premises and questioned what

noise level measurement would CSNN consider to be acceptable. Ms Jones reassured all parties that all the necessary appropriate guidance would be considered and the noise level would be measured between the hours of 23.00 and 24.00 on a Friday or Saturday night. She further advised that general guidance had also been issued to the applicant to help prevent dis-amenity and noise nuisance which included that regular checks of any outdoor area were undertaken to ensure that excessive noise or anti-social behaviour was not occurring. Ms Jones also explained that background noise was likely to be at a lower level after 23.00 and therefore it was deemed appropriate to measure levels at this hour as any potential noise disturbance that was experienced was likely to have a greater impact.

In response to a further question from Mr Willoughby-Ellis as to the exact level that the amplifier would be set at, Ms Jones explained that the measurement would be expressed as a LAeq5min and all relevant guidance would be considered. Mr Willoughby-Ellis explained that he managed a considerable number of properties which were situated approximately 150 meters from Hanse House and that the residents may well have a different view as to what they considered to be an acceptable noise level. Ms Jones explained that the noise levels would be measured by experienced officers within the CSNN Team and considered from the average person's perspective. Mr Willoughby-Ellis referred to issues that had been experienced from a neighbouring licensed premises which had resulted in residents having to undertake legal action.

3. THE APPLICATION

With the Chairman's agreement, the Licensing Manager presented his report and explained that the applicant had made two separate licence applications but both had been included as part of one report, and would be subject to the applicant putting forward their case as part of the same submission. He explained that it was assumed that the objections raised by the "other persons" applied equally to both applications, however, he requested that if for any reason, this was not the case, this was made known to the Sub-Committee at the appropriate time. The Sub-Committee would be however, making two separate decisions in relation to the applications along with their reasons.

The Licensing Manager stated that a premises license was 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 were:

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

The Application for Hanse House

Mr James Lee had made two applications under Section 17 of the Act for the licensable activities of 'regulated entertainment', 'late night refreshment' and the 'sale of alcohol'. A copy of the application for Hanse House had been attached at Appendix 1 to the Agenda and if granted would allow the premises to operate as follows:

<u>Licensable Activity</u>	<u>Days</u>	<u>Times</u>
Regulated Entertainment: 'Plays', 'Films' and 'Performance of Dance' (both indoors and outdoors)	Monday to Sunday	10am – 11pm
'Live Music' and 'Recorded Music' (both indoors and outdoors)	Monday to Thursday:	10am – 12 Midnight
	Friday to Sunday:	10am – 1am
	New Year's Eve:	10am – 2am
Late Night Refreshment (indoors only)	Monday to Thursday:	11pm – 12 Midnight
	Friday to Sunday:	11pm – 1am
	New Year's Eve:	11pm – 2am
Sale of Alcohol by Retail: (For consumption both on and off the premises)	Monday to Thursday:	10am – 12 Midnight
	Friday to Sunday:	10am – 1am
	New Year's Eve:	10am – 2am

The Licensing Manager highlighted that any reference in the application to extending the hours on Monday to Thursday for special events was too vague to convert to a condition. Non-standard timings should be for specific events, for example, New Year's Eve or Good Friday and could not be a blanket authorisation.

Mandatory Conditions

The Licensing Manager explained that the premises licence for Hanse House, if granted would be subject to the following mandatory conditions:

- 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.
- 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.
- 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-
 - (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.

- Under Section 20 of the Licensing Act 2003, the admission of children to film exhibitions is to be restricted in accordance with film classification recommendations.

Conditions Consistent with the Operating Schedule

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

- The sale of alcohol for consumption on the premises shall only be made to persons who are attending a pre-arranged event.
- No person under the age of 18 shall be admitted to the premises when there is a performance of a play, dance or other entertainment containing material of an adult nature.

The Licensing Manager highlighted that there had been some concerns raised by “other persons” in relation to the term ‘adult nature’, however he advised that the admission of children to film exhibitions would be restricted in accordance with film classification recommendations.

Application for No 1 & The Undercroft

The Licensing Manager explained that the conditions agreed with the CSNN Team also applied to the application for No 1 & The Undercroft.

A copy of the application for No 1 & The Undercroft had been attached at Appendix 2 to the Agenda and if granted would allow the premises to operate as follows:

<u>Licensable Activity</u>	<u>Days</u>	<u>Times</u>
Regulated Entertainment: 'Live Music' and Recorded Music' (both indoors and outdoors)	Monday to Thursday:	10am – 12 Midnight
	Friday to Sunday:	10am – 1am
	New Year's Eve:	10am – 2am
Late Night Refreshment (both indoors and outdoors)	Monday to Thursday:	11pm – 12 Midnight
	Friday to Sunday:	11pm – 1am
	New Year's Eve:	11pm – 2am

Sale of Alcohol by Retail: (For consumption both on and off the premises)	Monday to Thursday:	10am – 12 Midnight
	Friday to Sunday:	10am – 1am
	New Year's Eve:	10am – 2am

Mandatory Conditions

The premises licence for No 1 & The Undercroft, if granted would be subject to the following mandatory conditions:

- 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.
- 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.
- 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-

- (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

The licence for No 1 & The Undercroft, if granted would be subject to the following condition which was consistent with the operating schedule:

- The area immediately surrounding the premises shall be cleared of all waste at the end of the trading day and disposed of in a container appropriate for the storage of such items.

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 Borough Council's Community Safety and Neighbourhood Nuisance Team were objecting to both of the applications under the prevention of public nuisance licensing objective. A copy of their letters of objection were attached to the Agenda at Appendixes 3 and 4.

There were no representations from the other 'responsible authorities' to consider.

Representations from 'Other Persons'

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

There were twenty four representations from 'other persons' to consider. Copies of the letters had been attached to the report at Appendix 5. It had been assumed that all 'other persons' were objecting to both applications.

Notices

The applicant was responsible for advertising the applications 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 for both

applications appeared in the Lynn News on Friday 1st February 2013 and should have been displayed on the premises until the 25th February 2013.

Plans

A plan of the premises for Hanse House had been attached at Appendix 6 and a plan of the premises for No 1 & The Undercroft had been attached at Appendix 7. A location plan showing the location of both premises and other persons had been attached at Appendix 8.

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

The Licensing Manager reminded the Sub-committee that the current Statement of Licensing Policy was approved by full Council on the 25th November 2010 and the following extracts may be relevant to the applications:

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 October 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:

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.

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.

Questions to the Licensing Manager

The Sub-Committee confirmed that they had no questions for the Licensing Manager in relation to his report.

Professor Falconbridge took the opportunity to raise the issue of data protection and expressed “disquiet” that the addresses and signatures had not been redacted from the Agenda and questioned whether the Borough Council had unwittingly breached the Data Protection Act. The Licensing Manager explained that no personal data had been published as part of the Agenda on the Borough Council's website and the only persons who had received a full copy of the Agenda were those who had made representations (as well as the applicant etc). He also advised that under the Licensing Act 2003 it did stipulate that applicants should be encouraged to contact relevant parties to ascertain whether any agreement could be reached prior to a hearing. Professor Falconbridge requested a formal response in writing.

In response to a query raised by Mr Pearce as to the mandatory condition in relation to the measure in which beer or cider should be available, the Licensing Manager clarified that it was a requirement that beer or cider was available in half pint measures.

4. THE APPLICANT'S CASE

On behalf of the applicant, Mrs Kirsty Gauntley presented their case as follows:

Background

The licence to build relating to the site was granted circa 1474, followed by the construction of 2 hanseatic warehouses in around 1480. In 1751 the buildings were sold by the Hanseatic League to Edward Everard, a wealthy Lynn merchant, for the sum of £800; resulting in the construction of the Georgian house to St Margaret's Place we see today. Parts of the building have variously served as a maltings, a granary, a school and the residence of Victorian gentlemen; latterly it was purchased by Norfolk County Council who converted the site to office space in the early 1970's. The building has been under current ownership since November 2011; James Lee, the successful bidder, having been selected by Norfolk County Council on a number of factors, not least his proposed uses for the building.

Following consultation with the Borough Council of King's Lynn and West Norfolk, English Heritage and other interested parties these proposals were granted planning permission and listed building consent at the end of July 2012.

Mr Lee intends to reinstate Hanse House as a centre for commerce and trading, as it once was. The development is one of mixed use, providing both commercial and residential accommodation in a Grade 1 listed building, alongside an indoor market, gallery space and rooms for hire by businesses and other organisations. It is also intended to continue the tradition of conducting marriages and civil ceremonies first introduced by Norfolk County Council some 40 years ago, and to extend this service by offering facilities for wedding receptions, christenings and the like. The café and bar seek to offer places for relaxation, socialising and entertainment.

Overall, the development seeks to increase public access and allow the building to sustain itself through commercially viable activities, whilst providing a vibrant contribution to the regeneration of the quayside area of the town centre.

Application Clarifications

With regard to the 'special events' referred to in the non-standard timings section of the application, this was due to an error of understanding on my part; and I apologise for any confusion this has caused.

In respect to the use of the inner courtyard, planning consent ref: 12/00616/F Condition 6 dictates any commercial activity taking place

there shall cease at 10pm and no commercial activity shall take place there on Sundays; as acknowledged in our applications.

I have confirmed with the Borough Council's Community Safety and Neighbourhood Nuisance Team that we would be agreeable to Sunday hours being in line with those of Monday to Thursday, as opposed to Friday and Saturday; with the exception of those Sundays that precede Bank Holiday Mondays.

Having given the matter careful consideration we are also agreeable to the provision of regulated entertainment E and F being permitted Sunday - Monday until 11pm; Friday and Saturday until midnight; as per the letter received from and discussed with Katherine Jones, Environmental Health Officer, dated 20th February 2013.

It is unfortunate that the phrase 'material of an adult nature' seems to have been misconstrued, and that this misapprehension went on to be widely propagated; to the extent that questions arose regarding lap dancing and pole dancing. In context, this reference was made in relation to the protection of children from harm and referred to the potential for performance of plays and dance with adult content, with the simple meaning of not being suitable for children. It was included to demonstrate we understood our responsibility to ensure the exclusion of those under 18 from such performances in the same way as those under 18 are required to be excluded from a film with an 18 certificate.

Public Representations

Hanse House is situated in a town centre location in an area of mixed commercial and residential occupancy. Although we of course respect the democratic processes by which premises licenses are determined, we were dismayed to discover many of our residential neighbours had received leaflets setting out why and how they should object, including examples of what specifically they should write.

I have personally responded to each of the letters received, and included in each a copy of the additional information prepared in support of our application; with an invitation to contact me to arrange a site visit. There were several responses and I have conducted a number of site visits over the last 3 weeks, at which I have received some positive comments regarding the project.

Standard Timings

The premises licence application for Hanse House is to allow for wedding receptions and other such functions. This is a very competitive market and in order to operate a viable business we would like the flexibility enjoyed by existing licensed premises in the vicinity which offer similar services, such as the Town Hall, which has a granted closing time of 1.30am Monday - Sunday. Should our activities be restricted to ceasing

at 10pm as suggested by some of the public representations it is doubtful the business would succeed. The business needs to succeed in order to recoup the significant financial investment made in both the purchase and renovation of the building, and to fund future maintenance; all of which come ahead of any profit.

We do not intend to operate as a night club, and would consider ourselves to be comparable with The Corn Exchange, which has a granted closing time of 2.30am Monday - Sunday; but is not considered a nightclub, or open every night until that time.

I noted a number of the representations stated that they were concerned with the lateness of the hours we have applied for, and recommended that we should not be open in excess of nearby existing licensed premises; amongst other things for fear that upon closing customers would then make their way to Hanse House. It should therefore be of interest that three existing licensed premises in the area have granted closing times that from Monday - Thursday are 1 hour in excess of those we have applied for, and on Fridays and Saturdays are the same as those we have applied for. For example: The Bank House and the Town Hall have granted closing times of 1.30am Monday to Sunday, as does Bradley's from Monday to Saturday.

- The representations that raise this concern seem to have made an assumption that the hours we have applied for are in excess of those of existing licensed premises in the area.
- This would indicate that they are not aware of the actual granted open hours of these premises.
- If they were not aware of the actual granted open hours of these premises it would seem unlikely that they have been disturbed or inconvenienced by them.
- If our operational hours were then less than or equal to those premises in the vicinity, and our mode of operation and target clientele of a similar nature then it is probable that we will also not disturb or inconvenience them.

Anti-social Behaviour / Public Safety

Some public representations felt our proposed form of operation would increase the likelihood of criminal and anti-social behaviour in the area. We would counter that with both commercial and residential occupants, in addition to public visitors, the likelihood of such behaviours arising would be considerably diminished. The greatest risk to Hanse House, and the one that would have the most significant impact on its surroundings, would be for the building not to be developed. Should the

building stand empty it could through lack of maintenance structurally become a danger to public safety, as well as attracting the kind of unwanted attention often encountered in the vicinity of vacant buildings, such as graffiti, vandalism and other such anti-social behaviour.

Noise Nuisance

The layout of the building is such that the dedicated entrances to No 1 Hanse House & The Undercroft are situated to the South Quay, at some distance from the residential areas in Priory Lane and Nelson Street. It is envisaged Hanse House will also be largely accessed by the South Quay entrance. The entrance on St Margaret's Lane is for the sole use of the occupants of the three residential flats. The entrance from St Margaret's Place will be used predominantly by the offices situated there and probably also as a pedestrian access. We therefore envisage the likelihood of noise nuisance as a result of customers leaving the building will be greatly reduced.

Evening activities will take place predominantly to the South Quay end of the building, again reducing the likelihood of noise nuisance to residential areas, as to this side Hanse House is situated between the Sea Cadets and Marriott's Warehouse. The sections of the building closest to residential areas are themselves residential or office spaces.

Following consultation with Community Safety and Neighbourhood Nuisance, we also produced a Noise Management Plan included in the additional information document submitted in support of our applications.

Parking / Traffic

With regard to both parking and traffic, we are fortunate in having our own walled car park to the front of the building to the South Quay side which also extends behind Marriott's Warehouse. Norfolk County Council Environment, Transport, Development stated during the planning process that the site had excellent links to public transport services and car parking provisions; and furthermore made no objections to the proposals on highways grounds.

Conclusion

Hanse House has a long and varied history, and the ability to meet the diverse needs of successive occupants is fundamental to its survival both into the 21st Century and beyond. We would ask that you consider our application in the context of our ability to operate a viable business in an area of current and future regeneration.

Questions to the applicant

There were no questions from Ms Jones, CSNN Team.

In response to questions raised by the “other persons”, the following responses and clarification was provided:

- In relation to No.1 & The Undercroft (Section M (a), page 40), the sale of alcohol would only take place in the inner courtyard with the prior approval of the Hanse House management and would also need to adhere to any conditions attached to their licence if granted.
- There was no specific time currently set for the area immediately surrounding the premises to be cleared of waste (Section M (d) – page 40) but it would be cleared by staff at an appropriate time as to not to cause a disturbance. The Licensing Manager explained that if a specific time was practicable and put forward by the applicant and subsequently endorsed by the Sub-Committee, if granted, it could form a condition on the licence, however he was unaware of any other licensed premises that had such a condition.
- The use of the South Quay entrance for customers was issued as general guidance by the CSNN Team and was not recommended as a condition. The applicant also explained that the layout of the building was such that the entrances to No 1 & The Undercroft were situated to the South Quay, some distance from the residential areas in Priory Lane and Nelson Street. It was also envisaged that Hanse House would be largely accessed by the South Quay entrance with the entrance on St Margaret’s Lane being for the sole use of the occupants of the three residential flats. Evidence also suggested that people generally left the premises by the entrance to which they had arrived.
- In relation to the condition consistent with the operating schedule in that no person under the age of 18 shall be admitted to the premises when there was a performance of a play, dance or other entertainment containing material of an adult nature, this was in line with the legal requirement by the British Board of Film Classification. In terms of R18 (Restricted 18) Films which were films involving hard-core pornography, the Licensing Manager advised these could only be shown in licensed adult cinemas or sold at licensed sex shops. He also advised that the law allowed for premises to have events such as lap dancing up to eleven times per year without the need for a licence although appropriate steps to protecting children from harm would have to be taken.
- In relation to the close proximity of the properties in Hampton Court, which were single depth accommodation and therefore there was nowhere for residents to go to escape any potential noise nuisance which may emanate from the “marriage room” (page 106 – plan of premises for Hanse House), the applicant explained that the room would be used after the marriage

ceremony to have a glass of champagne/sandwiches etc and that there was no intention to hold “wild parties”.

- The reason the application included the provision of sale of alcohol by retail (both for consumption on and off the premises) was in order to hold indoor farmers markets which would include the sale of local ales and beer, in respect of the Hanse House application. In respect of No 1 & The Undercroft, the intention was for the tenant to run a café which would also sell local beers and spirits etc. The Licensing Manager also advised that the provision would also allow customers to take home any unfinished bottles of wine which was in accordance with relevant legislation.

There were no questions from Members of the Sub-Committee.

5. THE RESPONSIBLE AUTHORITIES CASE

Ms Jones from the CSNN Team confirmed that as the applicant had agreed to the conditions recommended, their objection had now subsequently been withdrawn. She took the opportunity to thank the applicant for their cooperation in coming to an agreement. She explained that she had given careful consideration to the location of the premises being nearby to a residential area and the location of residential accommodation within the premises in order to achieve a compromise in relation to the concerns raised by residents whilst not imposing an unreasonable restriction on the business. In conclusion, Ms Jones stated with the conditions agreed and sound management by the applicant, she felt that residents would be safeguarded against any potential public nuisance.

Questions to the Responsible Authority

There were no questions from the applicant for Ms Jones.

In response to questions raised by “other persons”, the following responses and clarification was provided:

- There was no specific guidance stating a specific “drinking up” time period but the general consensus was a thirty minute period from the cease of licensable activities was appropriate.
- Beyond the immediate area surrounding the premises, these were matters for the personal responsibility of individuals under the law. An individual who engaged in anti-social behaviour was accountable in their own right.

There were no questions from Members of the Sub-Committee.

The Chairman adjourned the hearing for a comfort break (11.18am).

6. OTHER PERSON'S CASE

On reconvening the hearing (11.28am) the 'other persons' were invited by the Licensing Manager to present their case.

Councillor Mrs Bambridge (Local Ward Member)

Councillor Mrs Bambridge explained that she was speaking on behalf of residents who had expressed concerns over the applications. She stated that she was pleased that the building was being put back into use rather than being left empty but she did not want it to be at the detriment of local residents. She referred to the problems that had been experienced at a neighbouring licensed premises, mainly as a result of the introduction of the smoking ban, which had subsequently required local residents to take legal action. Councillor Mrs Bambridge also referred to other licensed premises within the town centre where complaints/problems had been experienced. The Chairman reminded Councillor Mrs Bambridge that the applications that were being considered at the hearing were in respect of Hanse House and No 1 & The Undercroft.

Councillor Mrs Bambridge raised concern that noise would "echo" around the courtyard causing disturbance. She also referred to the exhibition of film which had been applied for (page 21, Section B), performance of live music (page 23, Section E) and performance of dance all of which to take place both indoors and outdoors which could potentially cause disturbance. Councillor Mrs Bambridge also referred to the fact that it had stated in the application that public entrances were available from both the South Quay and St Margaret's Place and questioned whether consideration could be given to St Margaret's Place being deemed as a fire exit only. She acknowledged the amended times as agreed with the CSNN Team but suggested that it was important to address any residents' concern from the offset and requested that consideration be given to the potential for public nuisance.

Questions to Councillor Mrs Bambridge

In response, the applicant, Mr Lee explained that the type of business he was trying to establish was not comparable to those referred to in the town centre. There was a facility to park 44 cars within a walled area and during renovation of the building noise reduction measures had been incorporated which would provide solid sound proofing.

There were no questions from Ms Jones, CSNN.

In response to a question from the Chairman, the applicant confirmed that the building was 2/3 storeys high with a roof on top. During the renovations, noise would have been created by such activities as grinding/cutting bricks yet no complaints had been received.

Dr E Harrison

Dr E Harrison acknowledged that the proposals offered a sound private venture but in doing so, stated that licensable activities must function in line with the well-being of the immediate residential community. She explained that she had lived in Nelson Street since 1971 and had seen the historic area redeveloped providing more residential units which subsequently had seen the area become densely populated. Reference was made to the introduction of the smoking ban in 2007 which had caused problems at a neighbouring licensed premises due to noise from the rear of the premises and had subsequently resulted in Nelson Street residents applying for a review of the licence. Dr E Harrison also explained that she had suffered from disturbed sleep as result of problems experienced from neighbouring licensed premises. She stated that the walk along Nelson Street had been referred to as “the finest in Europe” and did not want this image to be ruined. Reference was also made to the problems experienced in the Bradford riots. Dr E Harrison referred to the potential for rowdy behaviour, litter, vandalism and graffiti. Noise disturbance would also be a problem in the residential area with increased traffic, late night departures and banging of car doors. There was also the issue of parking, with there being very few on-street car parking spaces in the neighbourhood for residents with many residents being unable to park when they returned home in the evenings.

In conclusion Dr E Harrison stated that she was grateful to the CSNN Team for recommending the conditions outlined in their letter of 20th February 2013 and subsequently agreed by the applicant but they did not alleviate the concerns expressed by residents.

Questions to Dr E Harrison

In response, the applicant stated that he was flabbergasted by some of the comments made by Dr E Harrison who had stated that she was in favour of the proposals yet had objected both to the planning application and the licence applications. The references made to problems experienced from other licensed premises in the area and the Bradford riots were not relevant and were not the responsibility of the applicant.

There were no questions from Ms Jones or Members of the Panel.

Dr E Harrison took the opportunity to explain that she had objected to the planning application on the basis of compliance with the Disability Discrimination Act (DDA) and was grateful that these concerns had been incorporated as part of the conditions on the grant of the planning application(s).

Prof. Falconbridge

Prof Falconbridge in presenting his case stated that he had no wish to cause any discomfort for the applicant and his representation was not directed towards the applicant on a personal level. He explained that he was mindful that Hanse House was situated in the heart of distinctive residential and conservation area and that there was a duty of care to preserve the character, integrity and good order of the locality. The application would transgress the boundaries of good conduct that helped to safeguard the heritage area. With relation to the applicant's advisors reference to the premises be comparable to that of the Corn Exchange, Prof Falconbridge stated Hanse House was situated in the heart of a residential area whereas the Corn Exchange was not. The application(s) were a potential threat to the good quality of life experienced by local residents. Prof Falconbridge suggested that the excessive licence hours sought would increase the likelihood of unwelcome anti-social behaviour, a great volume of road and pedestrian traffic and associated noise and nuisance within the locality especially if late night drinkers were given an opportunity to migrate from nearby public houses after normal closing hours. He explained that drug related problems were already experienced within the locality. Prof Falconbridge referred to the application for the licence to offer plays and films suggesting it was unacceptably vague, similarly devoid of a sample programme and indication of content and frequency which was all the more disturbing when the term "adult" was used.

Prof Falconbridge stated that he had no particular objection to the holding of an indoor farmers market but suggested if granted, appropriate conditions should be attached to the licence. He referred to the 'special events' outlined in the non-standard timings section of the application, which had been acknowledged by the applicant's advisor as an error on her part, however, he suggested that a revised set of papers should have been issued in advance of the hearing to avoid any confusion.

There were no questions from the applicant, Ms Jones or Members of the Sub-Committee.

Mr Willougby-Ellis

Mr Willougby-Ellis presented his case and stated that the neighbourhood was characterised by quiet residential streets that formed the heart of the old town. At night, the streets were dimly lit, with almost no traffic after dusk. He suggested that local residents were involved and consulted in relation to the noise level that would be determined by the CSNN Team and form part of the noise management plan.

Mr Willougby-Ellis referred to the characteristics of the building, in particular the first floor, which was only some meters from Hampton

Court and several resident's bedrooms and proposed that in order to minimise disruption to neighbours, the use of this winged area was restricted to an 22.00hrs finish on any day and that noise pollution be minimised by ensuring that windows onto the alley should be permanently closed. He also proposed that plays and films (in respect of Hanse House) both ended by 2200hrs if conducted in the courtyard and that the open hours for both applications should be 2300hrs with the premises cleared by 2330hrs and that if granted, a specific condition should be attached to the licence(s) in relation to this. Mr Willoughby-Ellis acknowledged that monitoring would take place and that if problems were experienced, the licence could be subject to a review.

In response to a question raised by the Licensing Manager as to how practicable was it for local residents to be consulted in determining any noise level stipulated in the noise management plan, Ms Jones confirmed that any such level would be set from a "resident's perspective". She explained that noise levels could vary depending on the level of general background noise which would be different depending on the time of day. Ms Jones explained that the role of CSNN team was to prevent dis-amenity and nuisance and with good management there was no reason that the activities applied for should cause such. General guidance had also been issued to the applicant and the noise management plan would cover other areas and not just the level of noise.

In response to a question from the Chairman as to whether any noise was amplified when work was being undertaken in the court in relation to the renovation works, Mr Willoughby-Ellis explained that he could not confirm this.

Mr Pearce

Mr Pearce explained that he was broadly in support of the development but felt given that Hanse House was situated in a predominately quiet residential area, that the time applied for was too late.

There were no specific questions from the applicant, Ms Jones or Members of the Sub-Committee.

Rev M Tucker

Rev M Tucker, in presenting his case, explained that he was also representing Ms Roll. He referred to his own letter of objection (page 99, Flag U) and suggested that the Sub-Committee should carry out a site visit to the premises. The premises were so situated that they were not suitable for other than daytime and early evening activities. This was especially true of the frontages facing St Margaret's Church (Lynn Minister) and onto the lane beside Hampton Court down to the South Quay. Nelson Street and Priory Lane were entirely a quiet residential area and had been for many years. Recent use of the then St Margaret's

House (Hanse House) did not conflict with this, and any new use should respect the residential character of the area. At present the licensed premises in the vicinity brought their focus on the public highways outside the residential area. Any new activities should be restricted to hours appropriate to the residential character. A particular point was that use of the courtyard should not be allowed for anything that would transmit noise to the outside and beyond the premises. Any special events should require individual application(s) and authorisation by the licensing authority.

Rev M Tucker also referred to the letter from Ms Roll (page 96 and 97, Flag S) which also raised concern that noise permeates old buildings, through thin glazing and ancient roof spaces and therefore there was the potential for late night disturbance. There was also the issue of lack of ventilation within the building which was only by the means of opening the windows. Concerns over parking with reference being made to the Green Quay reopening as a restaurant were also raised.

In conclusion, Rev M Tucker stated that his concerns still remained despite the agreed revised hours.

Questions for Rev M Tucker

The applicant clarified that there were a number of windows which opened directly into the courtyard.

There were no questions from Ms Jones, CSNN.

In response to a question raised by the Chairman as to whether noise was experienced when the nearby silos were in operation, Rev M Tucker explained that since the demise of the silos, the area had been developed and become more residential.

7. SUMMING UP

Other Persons

The 'other persons' present at the hearing were invited to sum up their case.

Councillor Mrs L Bambridge

Councillor Mrs L Bambridge had previously left the hearing.

Dr E Harrison

Dr E Harrison summed up her case and proposed the following conditions should be attached to any licence that was granted:

- The licensing hours should only extend until 22.00 hours Monday to Saturday (excluding Sunday) with retail sales of alcohol ceasing at 5.15pm Monday to Saturday.
- In relation to nonstandard timings (Sections E, F, I, J and L) should be applied for individually as Temporary Event Notices.
- Entry/exit should also be restricted to the South Quay entrance.
- Entertainment, music of any sort, should not take place in the car park.
- All alcohol served on the premises should be consumed inside the perimeter of the actual premises building.
- A “covered” smoking area should be provided.
- All exterior doors and windows should remain closed when regulated entertainment was taking place inside.
- The maximum number of musicians playing at any one time should be restricted to 4 and that there should no drumming or amplification allowed.
- Notices should also be displayed asking clients leaving the premises to do so quietly and in an orderly manner.
- Any persons in the possession of drugs should be barred from the premises and reported to the police.

In conclusion, Dr E Harrison suggested that the Sub-Committee undertake a site visit.

Professor Falconbridge

Professor Falconbridge summed up his case and referred to the excessive licensing hours that had been applied for in that they would increase the likelihood of unwelcome anti-social behaviour, a greater volume of road and pedestrian traffic and associated noise and nuisance within the locality. He proposed that if any “off-licence” was granted, it should be strictly monitored by appropriate conditions. No commercial activity should take place on a Sunday. Professor Falconbridge stated that he was broadly in support of the conditions put forward by the CSNN Team (Appendix 3 and 4) and subsequently agreed by the applicant. In conclusion, he made reference to the St Margaret’s Conservation Area Character Statement (approved July 2003, revised November 2008).

Mr Willoughby-Ellis

Mr Willoughby-Ellis summed up his case stating that it was important that appropriate measures/conditions were imposed from the offset and referred to the “fear of crime” with the potential instinctive reaction being to increase lighting which was not conducive and in character with the tranquil community setting of the area.

Mr Pearce

Mr Pearce confirmed that he had no further comments to add.

Rev M Tucker

Rev M Tucker briefly summed up his case stating that he fully supported the careful and detailed comments put forward by the other objectors.

Responsible Authority

With the agreement by the applicant to the recommended conditions proposed by the CSNN Team, Ms Jones confirmed that she had no further comments to add.

Applicant

Mrs Kirtsy Gauntley, on behalf of the applicant, summed up their case and in doing so, thanked those objectors who had offered their comments of support. She explained that the business needed to succeed in order to be viable with significant financial investment having been made with no public funding being available. The building needed to be able to sustain itself through commercially viable activities and if a condition was imposed restricting the provision of regulated entertainment to 10pm, any enquiries received for such as events would likely result in the customer seeking an alternative venue.

In conclusion, Mrs Gauntley stated that they were mindful the building was situated within a residential area but there were already existing commercial activities within the surrounding area and urged that they were given an opportunity to demonstrate that a successful business could be managed within the area.

8. OUTSTANDING MATTERS

The Licensing Manager addressed the Sub-Committee and reminded them that the Licensing Act 2003 was specific in that planning permission, building control approval and licensing regimes were properly separated to avoid duplication and inefficiency. The planning and licensing regimes involved consideration of different (albeit related) matters. Licensing committees were not bound by decisions made by a planning committee, and vice versa. He also reminded the Sub-Committee that if they were minded to grant the application with the recommended conditions proposed by CSNN, any such endorsement of the conditions must be considered in light of the four licensing objectives, the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

The Licensing Manager also advised that the Section 182 Guidance stipulated that licensing authorities should look to the police as the main

source of advice on crime and disorder. No objection had been received from Norfolk Constabulary. He also reiterated in terms of public safety, that it was the public safety of persons using the licensed premises and not beyond the immediate area.

The Licensing Manager explained that in terms of any limits imposed on the capacity of the building, unless in exceptional circumstances, would be covered by relevant legislation under the Regulatory Reform (Fire Safety) Order 2005. He also advised that in relation to Temporary Event Notices, that the number that may be given for any particular premises was 12 times in a calendar year, with the maximum duration of an event authorised by a TEN being seven days. The police and the CSNN were the only bodies that could make an objection to prevent an event applied for by a TEN taking place and subsequently it did not offer an appropriate option in this case.

The Act also required that any licensing conditions that the Sub-Committee deemed to attach to any licence if granted should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. The use of wording such as “must”, “shall” and “will” was encouraged. Any conditions imposed should also be appropriate to the promotion of the licensing objectives and must be unambiguous and clear in what they intend to achieve. They should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation.

In terms of public nuisance, although this was given a statutory meaning in many pieces of legislation, it was not narrowly defined in the 2003 Act and therefore it was for the Sub-Committee to impose any conditions that were proportionate and necessary to reduce the risk of public nuisance.

The Licensing Manager reiterated that beyond the immediate area surrounding the premises, these were matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour were accountable in their own right.

The Licensing Manager explained that to encourage more performances of live music, the 2012 Act had amended the 2003 Act by deregulating the performance of live music so that, in certain circumstances, it was a unlicensable activity. Therefore the performance of live music, whether amplified or unamplified, could take place without a licence between the hours of 08:00 and 23:00 on any day as long as the number of patrons did not exceed 200. It was explained that the Government were looking to further reduce regulation and were looking to extend the number of patrons from 200 to 499.

The Licensing Manager also highlighted that at any stage, following the grant of a premises licence, a responsible authority, or any other person, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four

licensing objectives. The review application would be considered by a Licensing Sub-Committee who had a number of options, such as to modify the conditions of the premises licence, exclude a licensable activity or if appropriate, revoke the licence.

The Licensing Manager therefore requested that the Sub-Committee having regard to the report, the representations received, the Council's Statement of Licensing Policy and the Guidance issued under Section 182, consider the applications, the report and take such steps as they considered to be 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 Licensing Manager reminded the Sub-Committee that they had been presented with two applications which should be determined separately. They were reminded that full reasons for their decisions must be given as both the applicant and other persons had a right of appeal against those decisions to the Magistrates' Court.

The Legal Advisor addressed the Sub-Committee and also reiterated that they were requested to consider two premises licence applications in respect of Hanse House and No 1 & The Undercroft both of which would require reasons for their decisions. The Sub-Committee should have regard to the four licensing objectives, the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. The Legal Advisor stated that both oral and written evidence should be considered alongside the Council's Statement of Licensing Policy, the statutory guidance issued under Section 182 of the Licensing Act 2003 and the Human Rights Act. She reiterated that the applicant had agreed to the conditions recommended by the CSNN Team

9. REACHING DECISIONS

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, neither of whom took part in the decision making process. On all parties returning to the room, at the request of the Chairman, the Legal Advisor explained she had offered no further legal advice to the Sub-Committee in relation to their decisions but had assisted with the formulation of their reasons.

10. PRELIMINARY DECISIONS

The Chairman read out the preliminary decisions and reasons for the decisions as follows:

Hanse House

The Council received an application for a premises licence for Hanse House. Twenty four letters of objections were received from “other persons” and were attached to the report before us today. There was also a representation from a responsible authority, namely Community Safety and Neighbourhood Nuisance, which is also attached.

We listened to all the evidence and submissions, including from the Licensing Manager, the applicant and “other persons”.

This hearing was held to consider the application. We determined the application with a view to promoting the four licensing objectives. We have considered this application on its own merits and have had regard to the relevant parts of the written and oral evidence before us, the Council’s Licensing Policy, the Statutory Guidance issued under the Licensing Act 2003 and the Human Rights Act.

Many of the objectors welcome that this building is put into use. The concerns relate mainly to fear of excessive noise from late night licensable activity. We are satisfied that the applicant is committed to making a successful business and has implemented noise reduction into the renovation of the building. Both residents and commercial enterprises are to be located in this area and it is not possible to eliminate noise completely.

We consider that the applicant is not looking to run a business similar to that of a nightclub, but an upmarket and historical venue for weddings and functions.

Concerns were raised relating to increased noise if an entrance/exit other than at South Quay were used. We consider that the principle entrance and exit will be at South Quay and do not think it is proportionate to apply a condition allowing only limited use of other exits. This would be unreasonable to customers on foot. However we do impose a condition to protect local residents from noise by persons leaving the premises which will be set out later. We impose this condition as we consider this necessary to achieve the aim of prevention of a public nuisance.

Concerns were raised as to an increase in crime and disorder. Reference was made to possible offending which may result relating to drugs. There have been no objections raised from Norfolk Constabulary relating to such concerns. We do not consider it necessary to add any additional conditions relating to the prevention of Crime and Disorder as it is considered unnecessary.

The Sub-Committee felt that there would be a greater risk of Crime and Disorder and anti-social behaviour if the building was left unused.

We find no relevant concerns relating to the promotion of the licensing objectives of public safety or protection of children from harm and accordingly no further conditions are imposed in respect of them.

The Sub-Committee has determined to grant the licence as set out in the original application but amended to include the conditions and time amendments set out in Katherine Jones letter of 20th February 2013 on page 42 and 43 which was agreed by the applicant at the beginning of the Hearing. The grant of the licence includes the following conditions:

- 1) Mandatory Conditions.
- 2) Conditions consistent with the operating schedule detailed at 5(a) and (b) of Mr Gilbraith's report on page 5 and 6.
- 3) Conditions imposed by the Licensing Sub-Committee in that "prominent clear notices shall be displayed at all exits requiring customers to respect the needs of local residents and leave the premises and area quietly."

There is a right of appeal to the Magistrates Court within 21 days.

No.1 & The Undercroft

The Council received an application for a premises licence for No.1 & The Undercroft. Twenty four letters of objections were received from "other persons" and were attached to the report before us today. There was also a representation from a responsible authority, namely, Community Safety and Neighbourhood Nuisance which is also attached.

We listened to all evidence and submission including from the Licensing Manager, the applicant and "other persons".

This hearing was held to consider the application. We determined the application with a view to promoting the four licensing objectives. We have considered this application on its own merits and have had regard to the relevant parts of the written and oral evidence before us, the Council's Licensing Policy, the Statutory Guidance issued under the Licensing Act 2003 and the Human Rights Act.

Many of the objectors welcome that this building is put in to use. The concerns relate mainly to fear of excessive noise from late night licensable activity. We are satisfied that the applicant is committed to making a successful business and has implemented noise reduction into the renovation of the building. Both residents and commercial

enterprises are to be located in this area and it is not possible to eliminate noise completely.

We consider that the applicant is not looking to run a business similar to that of a nightclub but wishes to sell wine with a meal or at a farmers market.

Concerns were raised relating to increased noise if an entrance/exit other than at South Quay was used.

We consider that the principle entrance and exit will be at South Quay and do not think it is proportionate to apply a condition allowing only limited use of other exits. This would be unreasonable to customers on foot. However we do impose a condition to protect local residents from noise by persons leaving the premises which will be set out later. We impose this condition as we consider this necessary to achieve the aim of prevention of a public nuisance.

Concerns were raised as to an increase in crime and disorder. Reference was made to possible offending which may result relating to drugs. There have been no objections raised from Norfolk Constabulary relating to such concerns. We do not consider it necessary to add any additional conditions relating to the prevention of Crime and Disorder as it is considered unnecessary.

The Sub-Committee felt that there would be a greater risk of crime and disorder and anti-social behaviour if the building was left unused.

We find no relevant concerns relating to the promotion of the licensing objectives of public safety or protection of children from harm and accordingly no further conditions are imposed in respect of them.

The Sub-Committee has determined to grant the licence as set out in the original application but amended to include the conditions and time amendments set out in Katherine Jones letter of 20th February 2013 on page 42 and 42 which was agreed by the applicant at the beginning of the Hearing. The grant of the licence includes the following conditions:

- 1) Mandatory Conditions.
- 2) Conditions consistent with the operating schedule detailed at 8(a) of Mr Gilbraith's report on page 7.
- 3) Condition imposed by the Licensing Sub-Committee in that "prominent clear notices shall be display at all exits requiring customers to respect the needs of local residents and leave the premises and area quietly".

There is a right of an appeal to the Magistrates Court within 21 days.

Comments on the Decisions

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

11. DECISIONS

The Chairman therefore confirmed the decisions and the reasons as outlined above.

The Chairman thanked everybody for their attendance and contributions and declared the meeting closed.

The meeting closed at 2.35pm