

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

**Minutes of the Licensing Sub Committee Meeting  
held on Thursday 3<sup>rd</sup> October 2013 at 1pm  
in the Committee Suite, King's Court, Chapel Street, King's Lynn**

**PRESENT:**

Sub-Committee Members:	Councillor C Crofts (Chairman) Councillor C Manning Councillor A Wright
Borough Council Officers:	Rachael Edwards - Senior Democratic Services Officer John Gilbraith - Licensing Manager
Legal Advisor:	Cara Jordan
Premises:	48B Manor Road, Dersingham
Applicant:	Mr Celal Kara
Applicant's Representative:	Mr A Miller
Responsible Authorities:	Tony Grover – Licensing Officer, Norfolk Constabulary Inspector Gunnhill – Police Commander for Dersingham

**1. WELCOME AND APOLOGIES**

The Chairman welcomed everyone to the meeting and declared that the Sub-Committee were sitting to consider a premises application in respect of 48B Manor Road, Dersingham.

There were no apologies.

**2. ITEMS OF URGENT BUSINESS**

There were none.

**3. DECLARATION OF INTERESTS**

There were none.

**4. TO CONSIDER THE APPLICATION FOR GRANT OF A PREMISES LICENCE IN RESPECT OF 48B MANOR ROAD, DERSINGHAM**

The Chairman introduced the Sub-Committee Members and the Borough Council Officers and explained their roles. He also introduced the Legal Advisor, Cara Jordan and explained her role. Representatives from

Norfolk Constabulary introduced themselves as did the applicant and his representative.

## 5. THE PROCEDURE

The Legal Advisor outlined the procedure that would be followed at the hearing.

## 6. THE APPLICATION

The Licensing Manager presented his report and explained that a premises licence 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 & disorder,
- public safety,
- the prevention of public nuisance, and
- the protection of children from harm

Mr Celal Kara had made an application under Section 17 of the Act for the licensable activity of the 'sale of alcohol'. A copy of the application had been attached at Appendix One and if granted would allow the premises to operate as follows:

<u>Licensable Activity</u>	<u>Days</u>	<u>Times</u>
<b>Sale of Alcohol by Retail:</b> (For consumption off the premises only)	Monday to Sunday:	8am – 11pm

### **Mandatory Conditions**

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

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

### **Conditions Consistent with the Operating Schedule**

The following condition had been identified from the operating schedule (the application):

The licence holder shall maintain records of all refusals of the sale of alcohol and other incidents that may occur at the premises in a book that will be kept for that purpose. The refusals/incident book will be produced for inspection upon reasonable request from representatives of the Police or the Licensing Authority.

### **Representation from Responsible Authorities**

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

Norfolk Constabulary were objecting to the application on the grounds that the Crime & Disorder licensing objective could be undermined. A copy of their letter of objection dated the 1<sup>st</sup> August 2013 had been attached to the report at Appendix 2.

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

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

As well as responsible authorities, any other person can play a role in a number of licensing processes under the Act. This included any individual, body or businesses 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 16<sup>th</sup> July 2013 and should have been displayed on the premises until the 8<sup>th</sup> August 2013.

## **Plans**

A plan of the premises had been attached at Appendix 3 and a location plan had been attached at Appendix 4. The plan of the premises (Appendix 3) did not reflect how the final layout would be and should the premises application be granted then either a minor or full variation application would be required before trading could commence.

With the aid of Google Earth, the location of the premises was identified.

## **Questions to the Licensing Manager**

There were no questions from any of the parties.

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

Mr Miller, on behalf of the applicant presented his case and explained that Mr Kara had been at the premises for approximately 4 years. He currently ran the premises next door as a takeaway offering Kebabs and Fish and Chips. 48B Manor Road had been used as a store room for the last 2 years. It was explained that the applicant did not intend to use the premises for at least 12 months and accepted that the application maybe considered premature. He was however willing to comply with the 10 conditions put forward by the Police and any other necessary regulations that were appropriate. It was explained that there was parking provision in the "layby" outside the premises which would still allow two lanes of traffic to flow. It was highlighted that if the licence was granted, the licence holder would maintain records of all refusals of the sale of alcohol and other incidents that may occur at the premises in a book.

The applicant's representative confirmed that the application had been advertised in the local newspaper and a Public Notice was still displayed at the premises. No objections had been received from local residents and there had been no incidents of anti-social behaviour in relation to the premises within the last 12 months.

## **Questions to the applicant**

In response to a question from the Licensing Manager, it was confirmed that at this stage no formal name for the new venture had been decided upon. In response to a further question as to why the application had been made so far in advance of any intentions to operate at the premises, it was explained that the reason for the delay was due to the applicant currently developing a larger site situated in King's Lynn. Mr Kara confirmed that he did hold a Personal Licence.

For clarification purposes, the Licensing Manager explained that although the Public Notice may still be displayed at the premises, no one could now object to the application as it would be rejected on the basis it was outside of the consultation period. He did highlight that one

objection from a local resident had been received, however, it had subsequently been rejected as it was out of time.

Mr Grover referred to the use of the term lay-by explaining that in fact there was no lay-by outside the premises, the road just widened and was subject to all the normal statutory road regulations and restrictions. There were no yellow lines outside of the premises. In response to a question as to why the applicant was proposing to open the premises purely as an off-licence, it was confirmed that the applicant currently operated the premises next door which sold hot food and that the size of the premises at 48B Manor Road was not large enough to sell anything else.

In response to a question from the Chairman as to what plans the applicant had in terms of trained staff and cover for the premises when he was not there, it was clarified that if the licence was granted and at the appropriate stage, staff would be recruited and appropriately trained. In response to a further question from a Member of the Panel, it was clarified that the two premises would be entirely separate and although there was an interconnecting door this would in fact be blocked off.

## **8. RESPONSIBLE AUTHORITIES CASE – NORFOLK CONSTABULARY**

Mr Grover, Licensing Officer for Norfolk Constabulary presented his case and explained that when the Police were sent copies of an application, as part of the process, enquiries were made with the local police in the appropriate area to seek their views on the potential effect on the local community and any potential associated areas of concern. Inspector Gunnhill was the local Police Commander for Dersingham and would be giving her views on the potential impact if the licence was granted.

Mr Grover explained that the application was for a commercial premises situated on a T junction with the intention of it being run as an off-licence. It was therefore likely to attract a lot more customers, particularly young people, in order to purchase alcohol. There would be no direct access between the two premises and there was no provision to make the sale of alcohol conditional on the purchase of food. Mr Grover stated that he did have concerns with the proposed final layout of the premises which was not currently reflected in the plan that had been submitted as part of the application. On these grounds alone, he suggested that the application should be refused. The premises were very small and there was no designated secure area to store alcohol. If several customers were in the premises at any given time, it potentially could cause problem in relations to crime and disorder. There were also concerns over parking.

Mr Grover invited Inspector Gunnhill to give her views on the application. Inspector Gunnhill explained that until recently the road directly opposite the premises had been an anti-social behaviour hotspot and that elderly

people in nearby Hanover Court had suffered from anti-social behaviour. She explained that the Police had worked hard to reduce anti-social behaviour in the area and had some success. She was fearful that if the licence was granted, the area would see an increase in anti-social behaviour. It was acknowledged that there had been no recent incidents of anti-social behaviour in connection with the premises, with the last one being recorded in October 2012. There were also a bench located outside the premises which would allow customers to purchase alcohol and then sit and consume it directly outside giving potential rise to incidents of anti-social behaviour. Inspector Gunnhill also reiterated that there was not a designated layby outside of the premises, albeit local residents did use the area to park their vehicles, which in itself caused a bottleneck.

In conclusion, Mr Grover reiterated that he had concerns with the security of the premises referring to the Crime Prevention Report. He stated, that if the Sub-Committee were minded to grant the application, the applicant had agreed to comply with the 10 conditions put forward by the Police to address the poor state of security at the premises and therefore these would need to be attached to the licence. He also referred to his concerns over the plan of the premises submitted with the application which did not reflect the proposed final layout.

### **Questions to the Responsible Authorities**

The Licensing Manager highlighted that the Crime Prevention Report had not been circulated to Members of the Sub-Committee as part of the Agenda. The applicant's representative, however, confirmed he had seen a copy of the report and reiterated that the applicant had signed up to comply with the 10 conditions outlined by the Police. The Sub-Committee were offered an opportunity to view the Crime Prevention Report but felt it was not necessary.

For clarification purposes, it was explained that the bench was owned by the applicant but he was willing to remove it, if the licence was granted.

## **9. SUMMING UP**

### **The Licensing Manager**

The Licensing Manager summed up his case and referred the Sub-Committee to the current Statement of Licensing Policy which was approved by Full Council on the 25<sup>th</sup> November 2010 and in particular the following extracts which 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**

The Licensing Manager also referred the Sub-Committee to the Guidance issued under Section 182 of the Act which licensing authorities must have regard to. 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. He referred them particularly to the following extracts which 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.

### **Crime and Disorder**

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder.

2.3 Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social



behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

### **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.

### **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**

- 9.33 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;
  - it's 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.

### **The Need for Licensed Premises**

13.18 There can be confusion about the difference between the “need” for premises and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.

The Licensing Manager advised that anyone could submit an application for a licence, with the applicant being responsible to advertise the application for 28 consecutive days. Within these 28 days, any party can submit a representation. If representations were received, the 28 day

period also gave all parties an opportunity to discuss and try to reach an agreement. If no such representations were received, a licence would automatically be granted on the 29<sup>th</sup> day. A Licensing Sub-Committee would only be engaged in the process and have any discretion in determining an application if relevant representations had been received.

The Licensing Manager advised that consideration should be given as to whether the issue of traffic/parking problems was a relevant consideration in that by granting a licence to sell alcohol the problems would increase as a direct result. He also referred to the existing problems that had been experienced by residents in terms of nuisance and again advised that Members needed to consider whether the sale of alcohol at the Post Office would contribute to these problems.

The Licensing Manager requested that having regard to the representations received, the Licensing Sub-Committee consider the application, the report and take such steps as it considered 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 considered 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 their decision must be given as both the applicant and objectors had a right of appeal against that decision to the Magistrates' Court.

### **Responsible Authorities**

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

### **Applicant**

The applicant's representative summed up his case and reiterated that if the Sub-Committee were minded to grant the application, the applicant would comply with the 10 conditions outlined by the Police. He would also remove the bench that was currently situated outside the premises.

If the Sub-Committee had concerns in relation to the times applied for, the applicant would be willing to put back the opening time from 8am to say mid-day.

The applicant's representative stated that there were other existing outlets within the town that sold alcohol and therefore the opportunity already existed for customers to purchase alcohol within the town. He also stated that no alcohol would be consumed on the premises.

The Licensing Manager clarified that alcohol could only be consumed off the premises, although legally this could be immediately outside the premises.

## **10. OUTSTANDING MATTERS**

The Legal Advisor advised that when determining the application, Members would need to consider the relevant parts of the written and oral evidence, the Borough Council's own Licensing Policy, the Statutory Guidance issued under the Licensing Act 2003 and the Human Rights Act which balanced the right of a person to earn a living and the rights of the community to enjoy a peaceful environment.

The Legal Advisor reminded the Sub-Committee that 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 albeit, the main consideration in relation to the application was the crime and disorder objective.

She also advised that the starting point should be to consider whether the Sub-Committee were minded to grant the application. If for any reason the answer to this question was "no", the Sub-Committee should give consideration to refusing the application or granting the application with any appropriate conditions.

## **11. 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 for administration purposes, 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 decision.

## **12. DECISION**

The Chairman read out the decision and reasons for the decision as follows:

### **APPLICATION**

Kings Lynn and West Norfolk Borough Council, being the relevant licensing authority, received an application for a premises licence for 48B Manor Road, Dersingham, PE31 6LH

During the 28 day representation period, the Council received representations from the following:



## **RESPONSIBLE AUTHORITIES**

Norfolk Constabulary – Letter dated 1st August 2013.

No representations were received from the other 'responsible authorities', namely:

- Norfolk Fire Service
- Norfolk Trading Standards
- Norfolk Children's Safeguarding Board
- Norfolk Health Authority
- Planning
- Environmental Health (Health & Safety)
- Environmental Health/ Community Safety (Environmental Protection Team)
- Borough Council of King's Lynn & West Norfolk as the Licensing Authority

## **OTHER PERSONS**

There were no letters of objection from other persons.

## **HEARING**

On 3<sup>rd</sup> October 2013, a hearing was held to consider the application. The Sub-Committee determined the application with a view to promoting the four licensing objectives. It considered the application on its own merits. In reaching its determination, the Sub-Committee had regard to the following matters:

- The relevant parts of the written and oral evidence before them;
- The Kings Lynn and West Norfolk Borough Council Licensing Policy;
- Statutory Guidance issued under the Licensing Act 2003;
- The Human Rights Act.

The Sub-Committee listened to all the evidence and submissions. It heard from:

- The Licensing Manager
- The Applicant and his representative
- Norfolk Constabulary

## **SUMMARY OF EVIDENCE**

The Licensing Manager presented his report.

The applicant's representative informed the Sub-Committee that he had been at the existing property for 4 years and is making this application now although he does not intend to use this for 12 months, accepting this

could be seen as premature. He said that the reason for the delay is that he is dealing with a larger development in King's Lynn.

The applicant owns a fish and chip shop next door but this intended off licence would be completely separate with no connecting door.

Mr Grover and Inspector Gunnhill from Norfolk Constabulary attended the hearing. Mr Grover presented the concerns of the Police, this concern was that an off licence would likely attract an increase in young people attending for the purchase of alcohol. He also indicated a concern regarding the layout of the premises and how that could impact on crime and disorder. Inspector Gunnhill informed the Sub-Committee that the road directly opposite the premises has until very recently been an anti-social behaviour hotspot and that elderly people in nearby Hanover Court had suffered anti-social behaviour. She explained that the Police had worked hard to reduce anti-social behaviour in this area and had some success. She was concerned that an off licence has the potential to increase anti-social behaviour incidents.

### **FINDINGS**

The Sub-Committee was of the view that the applicant is currently ill prepared to set up an off licence at this premises. He has displayed little evidence of clear and sound plans. Furthermore, he does not intend to use the premises for around 12 months. Given the concerns from the Police in relation to anti-social behaviour in the recent past relating to this particular area, the Sub-Committee is of the view that crime and disorder in this area cannot be predicted in 12 months' time. It is also noted that the Police had previously considered this area as an anti-social behaviour hotspot and has worked hard to reduce such incidents in this area.

The Sub-Committee also had concerns that the plan of the premises submitted as part of the application does not reflect Mr Kara apparent intentions for the premises.

### **DETERMINATION**

The Sub-Committee refuse the application for a premises licence for 48B Manor Road, Dersingham.

### **RIGHT OF APPEAL**

There is a right of appeal against this decision to the Magistrates' Court. An appeal must be commenced within 21 days beginning with the day on which you receive notification of the decision. You may wish to seek independent legal advice from a solicitor or the Citizens Advice Bureau regarding this.

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

**The meeting closed at 14.35pm**