

BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK

**Minutes of the Licensing Sub Committee Meeting
held on Monday 19 January 2015 at 1.00 pm
in the Committee Suite, King's Court, King's Lynn**

PRESENT:

Sub-Committee Members:	Councillor C J Crofts (Chairman) Councillor C Sampson Councillor A Wright
Borough Council Officers:	Kathy Wagg - Democratic Services Officer John Gilbraith - Licensing Manager
Legal Advisor:	Jo Furner
Applicant:	Norfolk Constabulary
Applicant's Representatives:	Mr Tony Grover, Licensing Officer, Norfolk Constabulary Andy Owens, Solicitor, Norfolk Constabulary
Respondent:	Mr Z Mahrud
Respondent's Representative:	Mr Marcus Chapman, Kenneth Bush Solicitors

1. WELCOME AND INTRODUCTIONS

The Chairman welcomed everyone to the meeting and declared that the Sub-Committee was sitting to consider an application to review the premises licence in respect of Chilli Masters, 40 Norfolk Street, King's Lynn. He introduced the Sub-Committee Members and the Borough Council officers and explained their roles. He also introduced the Legal Advisor, Jo Furner. Mr Tony Grover, Licensing Officer and Mr Andy Owens representing Norfolk Constabulary also introduced themselves. The respondent, Mr Mahrud and his representative Mr Chapman also introduced themselves. All parties confirmed that fifteen minutes should be sufficient to present their cases.

2. THE PROCEDURE

At the request of the Chairman, the Legal Advisor explained that the procedure at the hearing would be amended on the basis that following proposals by the Police, which had been agreed by the Licence Holder, to resolve the matter without the need for a full hearing. The agreement would need the full endorsement of the Sub-Committee to be able to take effect. Both parties would be invited to make representations with questioning from the Sub-Committee and Licensing Manager if required. The Sub-Committee would then retire to consider if the agreement put forward was acceptable.

3. THE APPLICATION

The Licensing Manager explained that at any stage following the grant of a premises licence, a 'responsible authority' or any 'other person' may apply to the licensing authority to review the premises licence because of matters arising at the premises in connection with any of the four licensing objectives. These four licensing objectives were:

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

The Licensing Manager explained that the Norfolk Constabulary, as a responsible authority had made an application to review the premises licence for Chilli Masters under all four licensing objectives. A copy of the review application was attached at Appendix 1 and a copy of the additional statements which the Police provided on 10 December 2014 had been attached to the report at Appendix 2.

The Licensing Manager explained that ordinarily the Sub-Committee would hear evidence from the Police and equally from the respondent but in this instance the Police and Licence Holder had come to an agreement as set out in the letter from Norfolk Constabulary dated 15 January 2015.

The Licensing Manager advised the Sub-Committee that having regard to the review application, they were requested to consider the application, the report and take such steps as they considered appropriate for the promotion of the licensing objectives. These steps were:

- (a) To do nothing;
- (b) To modify the conditions of the premises licence (which included adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- (c) To exclude a licensable activity from the scope of the licence, for example, to exclude the sale of alcohol or provision of late night refreshment;
- (d) To remove the designated premises supervisor, for example, because they consider that the problems were the result of poor management;
- (e) To suspend the licence for a period not exceeding three months;
- (f) To revoke the licence.

The Licensing Manager explained that if the Sub-Committee endorsed the proposed agreement then this would come under item (b) above.

4. THE APPLICANT'S CASE – NORFOLK CONSTABULARY

Mr Owens explained that following a meeting between Norfolk Constabulary, Mr Marhad the Premises Licence Holder) and his solicitors from Kenneth Bush Solicitors held on 8th January 2015, both parties had agreed that the following proposals were put to the Licensing Committee for consideration and request that these agreements were incorporated into the current Premises Licence and that the permissions and conditions of that Premises Licence were amended accordingly to have immediate effect.

The agreed amendments were as follows:

1. The Hours for Late Night Refreshment will remain the same, i.e. Monday to Sunday from 11pm to 4am.
2. The Hours for the OFF SALES (only) of Alcohol will revert to those that were applicable following Mr Marhad's Premises Licence application in 2007 which were from Monday to Sunday between 5pm and 3am WITH conditions to be added within the current Premises Licence that state:
 - a. Alcohol Sales within the shop will stop at 11pm each day
 - b. Notices will be clearly displayed within the public areas of the shop informing customers that Alcohol Sales within the shop will stop at 11pm each day
 - c. No Alcohol will be on display within the shop premises at any time
 - d. From 11pm Off Sales will be permitted for the purposes of home deliveries to a bona fide residential address only and which forms part of a takeaway meal order
3. Condition 4 (Annex 2) within the current Premises Licence remains the same referring to the provision of CCTV within the shop
4. Condition 5 (Annex 2) within the current Premises Licence is amended to read: "Alcoholic beverages will only be supplied to customers on an individual basis who have purchased a takeaway meal with a minimum spend of £3.50 at current rates. (The amount of the minimum spend will increase from February of each year in line with the Consumer Price Inflation figures published by the Office of National Statistics (ONS) in January of each year.)
5. New Condition to be added to the current Premises Licence which states "The Premises Licence Holder will ensure that all staff receive training which refers to (a) the current Licensing Laws applicable to the retail sale of alcohol, and (b) the compliance of all Permissions and Conditions given within the Premises Licence. This training will be given to each staff member upon initial employment and at least annually thereafter. The Premises Licence Holder will ensure that individual staff training records are kept at the premises for each employee and are made available for examination by representatives of the Norfolk Constabulary and the Licensing Authority upon reasonable request".

6. New Condition to be added to the current Premises Licence which states: "The Premise Licence Holder will ensure that at least one SIA approved Door Staff Operative (employed by the Licence Holder directly or indirectly and in accordance with current regulations) is on duty at the premises from midnight until the premises is closed for business on Friday's, Saturdays, Bank Holiday weekends, Christmas Eve and New Year's Eve. A record of all incidents dealt with by door staff (or any other staff member) at the premises will be kept and be made available for examination by representatives of the Norfolk Constabulary and the Licensing Authority upon reasonable request".

Mr Owens further explained that the meeting held on 8th January 2015 was the first engagement with the respondent and his legal representative.

Mr Owens referred to previous incidents at Chilli Masters and explained that lots of promises had been made at the time to improve the situation but there had been no delivery or improvements made, therefore, the Police had no other option but to come in front of the Licensing Authority.

He added that the proposed conditions were considered to be justified and proportionate response to what had taken place. The Police had been able to engage with the Licence Holder to promote the Licensing objectives.

Mr Owens explained that the respondent had voluntarily put some of the conditions in place in advance of the hearing, such as the introduction of a door supervisor, the removal of the sale of alcohol after 11pm from the premises. The introduction of the door supervisor was a significant step to promote the licensing objectives. The Police were also of the opinion that Mr Marhad had realised the seriousness of the situation that he now found himself in.

There were no questions from the Licensing Manager to the Police.

There were no questions from the respondent to the Police.

In response to a question from the Chairman, Councillor Crofts, Mr Owens explained that the Police would not support the revocation of the licence.

The Chairman, Councillor Crofts also asked whether the signs which would be on display needed to be of a certain size. Mr Owens advised that the signs would need to be sufficiently large enough to be seen.

The Licensing Manager suggested that the condition could be amended to read that signs would be *prominently* displayed.

The Chairman, Councillor Crofts also referred to the refusals register and expressed concern that this was not attended to in a timely manner. Mr Grover explained that the Police were content that it did not necessarily reflect what information had been received.

5. THE RESPONDENT'S CASE

Mr Chapman, on behalf of Mr Marhad, explained that upon receipt of the application Mr Marhad had engaged with his firm to take the necessary advice. An approach had been made to Norfolk Constabulary to see if Mr Marhad and the Police could work together. Mr Marhad had taken advice from Mr Grover and the Council to agree to the proposals as put forward.

Mr Marhad acknowledged the effect the proposals would have on his business but wanted to continue to trade and demonstrate to the authorities that he could trade in an appropriate manner.

Mr Chapman explained that Mr Marhad had voluntarily put into practice the following:

- A supervisor had been on site since 9 January 2015
- Alcohol sales within the shop had stopped at 11pm each day since 9 January 2015;
- Signage had already been posted.
- All alcohol had been removed from sight within the premises

In relation to CCTV, Mr Marhad was meeting with CTS Security who would be carrying out a survey of the CCTV system, and he would take on board their recommendations.

It was explained that Mr Marhad had already engaged with Mr Grover regarding training in relation to the licensing requirements and also conflict resolution training would be provided.

Mr Chapman added that Mr Marhad would be open to any other recommendations, and that Mr Marhad was aware that this was his last opportunity.

The Licensing Manager had no questions to the respondent.

The applicant had no questions to the respondent.

In response to a question from Councillor Sampson, Mr Marhad confirmed that it was a requirement of his insurance to have an alarm not CCTV as well.

Councillor Crofts asked what SIA stood for. It was explained that it was Security Industry Authority.

Councillor Crofts further asked what the training would entail and who would provide it.

In response, Mr Chapman explained that conflict resolution training would be provided as Mr Marhad employed some young members of staff. The doorman would be trained by the Security Industry Authority. Training would also be provided in relation to the Licensing requirements. Mr Marhad had already been in contact with Mr Grover and if additional training was required then external trainers

would be employed to train staff. The training would be reviewed on an annual basis. This would also provide a document trail.

Councillor Crofts asked if an external trainer would provide the training straight away. In response Mr Chapman explained that the SIA also provided training.

Councillor Crofts referred to the issues encountered with the CCTV, and asked what Mr Marhad intended to do about that so that other members of staff could access the CCTV.

Mr Chapman explained that CTS were visiting the premises today and other members of staff would be trained to use the system. Mr Chapman also explained that the current CCTV system had been bought privately however CTS would be reviewing the system and would be used for maintenance of the system. CTS were based in King's Lynn so it seemed appropriate to use them. The CCTV both inside and outside would be with CTS.

Both parties were asked if they wished to make any further representations but declined to do so.

6 OUTSTANDING MATTERS

The Licensing Manager referred to Guidance issued under Section 182 of the Licensing Act 2003 which stated that:

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 a good working relationship 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.

The Licensing Manager reminded the Sub-Committee of the proposed conditions and also read out the options available to them.

The Licensing Manager also reminded those present that there was a right of appeal against the decision to the Magistrates' Court.

7. REACHING A DECISION

The Sub-Committee retired to consider its decision in private, accompanied and advised by the Legal Advisor on specific points of law and procedure. On all parties returning to the room, at the request of the Chairman, the Legal Advisor explained that she had not offered any legal advice to the Sub-Committee only that

if they were minded to go above and beyond anything in the agreement then both parties should have an opportunity to present their case.

9. DECISION

The Chairman read out the decision as follows:

The Sub-Committee, in reaching its decision had due consideration to the information presented to it both in the report and orally at the hearing, and to the guidance issued under S182 of the Licensing Act.

The Sub-Committee had serious concerns regarding the incidents and allegations which brought about the review and indeed the Sub-Committee were reluctant to endorse the proposals put forward by the Police and accepted by the Licence Holder in the first instance.

However, the Sub-Committee accepts that in accordance with the statutory guidance the Police are the main source of advice in matters relating to the promotion of crime and disorder objective and persuasive on the remaining objectives, and that the authority should accept all reasonable and proportionate representations by the Police unless there is evidence that to do so would not be appropriate for the promotion of the licensing objectives. Accordingly given the Police advice that the agreed amendments addresses all the licensing objectives and provided a justified and proportionate response to what has taken place and the cooperation between the parties, the Sub-Committee endorse the agreed amendments as attached subject to a slight amendment 2 (b) which shall read:

“Notices, which shall be acceptable to the Police and Licensing Authority, shall be clearly and prominently displayed within the public areas of the shop informing customers that alcohol sales within the shop shall cease at 11pm.”

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

The meeting closed at 2.18 pm