

BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK

LICENSING COMMITTEE

Minutes from the Meeting of the Licensing Committee held on Tuesday, 9th February, 2016 at 10.00 am in the Committee Suite, King's Court, Chapel Street, King's Lynn

PRESENT: Councillor D Tyler (Chairman),
Miss S Sandell, D Tyler and D Whitby

1 **APOLOGIES FOR ABSENCE**

There was none.

2 **ITEMS OF URGENT BUSINESS**

There was none.

3 **DECLARATIONS OF INTERESTS**

There was none.

4 **TO CONSIDER AN APPLICATION FOR 4 LONDON ROAD, KING'S LYNN**

The Chairman welcomed everyone to the meeting and declared that the Sub-Committee was sitting to consider an application for a premises licence in respect of Lietuviska Uzeiga, 4 London Road, King's Lynn. He introduced the Sub-Committee, the Borough Council officers and the Legal Advisor and explained their roles.

The Applicant, Mrs Vilma Pieteryte and the Applicant's representative, Mr Grover introduced themselves.

The other persons present, Mrs Knights and Mrs Cook introduced themselves.

All parties confirmed that fifteen minutes would be sufficient to present their case.

a **Procedure which will be followed at the Hearing**

At the request of the Chairman the Legal Advisor outlined the procedure which would be followed.

b **Report of the Licensing Manager**

The Licensing Manager presented his report and provided an overview of the application. In presenting his report, the Licensing Manager referred to the following:

- In response to a question from the Licensing Manager, the Applicant's representative confirmed that Lietuviska Uzeiga translated to Lithuanian Café.
- The application, which had been included within the Report.
- The mandatory conditions, conditions consistent with the operating schedule and conditions which could be imposed by the Sub-Committee.
- The four objectives of the Licensing Act.
- There had been no representations from the Responsible Authorities. The Community Safety and Neighbourhood Nuisance Team would have objected if the Applicant had not agreed to the conditions which were consistent with the operating schedule.
- There had been representations from three other persons and their representations were included in the Report. Two of the other persons were present at the Hearing.
- The Borough Council's statement of Licensing Policy and Section 182 guidance.

There were no questions to the Licensing Manager.

5 **THE APPLICANT'S CASE**

The Applicant's representative presented the case on behalf of the applicant. He explained that the Applicant was the leaseholder of 4 London Road and he outlined her circumstances. She had worked with her husband since 2012 at the premises, which was previously a butchers and a deli. An application for offsite sales of alcohol had been granted in 2015 for the premises. The business had since been relocated to 20 London Road. The Applicant also ran a deli in Thetford which permitted off site sale of alcohol. The Applicant was the Designated Premises Supervisor and Licence Holder.

The Applicant's representative explained that the premises at 4 London Road was currently undergoing a refit as a café and referred to the plan of the premises which was attached to the Licensing Manager's report.

He informed those present that London Road was a mix of residential and commercial properties. The Applicant would like to provide a small café with a takeaway service. She would like to offer customers the opportunity to purchase alcohol to consume with their meal or to takeaway. She did not intend to act as an off licence.

The Applicant's representative highlighted that no application had been made for regulated entertainment and it was intended to provide background music only so that patrons could still hold a conversation.

The Applicant intended to open the premises from 10am to 11pm, but she could choose to close earlier depending on customer requirements.

The Applicant's representative drew attention to the conditions put forward by the Community Safety and Neighbourhood Nuisance Team which had been accepted by the Applicant. He informed those present that representatives from the Community Safety and Neighbourhood Nuisance Team had met at the premises.

The Applicant's representative informed those present that one of the conditions put forward by the Community Safety and Neighbourhood Nuisance Team would be the adoption of a Noise Management Plan. A copy of the plan was circulated to all parties present at the hearing. The Applicant's representative stated that the plan went wider than what was required in the conditions.

The Licensing Manager reminded those present that the Noise Management Plan would require agreement from the Community Safety and Neighbourhood Nuisance Team.

The Applicant's representative referred to the representations made by other persons. He felt that they painted a bleak picture of a problem premises, but felt that these problems related to the previous occupiers of the premises who had often traded for longer hours than permitted. He stated that there had been no reported problems since the current occupier had taken over the premises.

The Applicant's representative explained that the Applicant still had three years remaining on her lease so wanted to utilise the shop. She felt that it would be of benefit to the community.

The Applicant's representative referred to crime figures from November 2015 and stated that there were three incidents of anti-social behaviour and public disorder within 400 yards of the premises. He did not consider this to be a huge problem. He reminded those present of the representations received from the Community Safety and Neighbourhood Nuisance Team and the conditions. He referred to the representation put forward by Mrs Knights in that the operating hours should be reduced. He explained that the Applicant would not trade beyond 11.00pm. He referred to the representations from other persons regarding highways issues as there was no parking outside of the premises. He explained that this was a matter for the Police, who had not made any representations on the application.

The Applicant's representative reminded those present that the Applicant had three shops which employed eight full time equivalent staff. She already had a premises licence and a track record of compliance. He reminded those present that the Applicant could still run 4 London Road as a café without a premises licence and

customers could bring their own alcohol, however, she wished to control and be responsible for what was consumed on her premises.

The Chairman thanked the Applicant's representative and invited questions from all parties.

The Licensing Manager reminded the Applicant's representative that he would be required to submit a copy of the Noise Management Plan to the Community Safety and Neighbourhood Nuisance Team for approval.

The Licensing Manager asked if the Applicant had engaged with local residents to alleviate their concerns. The Applicant's representative explained that she had not because they did not get on with her and were likely to object to the application anyway.

In response to a question from the Licensing Manager regarding staff training, the Applicant's representative explained that 4 London Road would employ one full time Manager and two full time assistants. The Applicant would be the Licence Holder and the Designated Premises Supervisor. The Applicant would train the staff as required.

The Licensing Manager informed those present that he had visited 20 London Road and asked the member of staff on duty about staff training and personal licences and explained that the member of staff did not know about personal licences. The Licensing Manager sought reassurance that staff would be trained appropriately. The Applicant's representative assured the Sub-Committee that all members of staff had been trained and the Applicant had the relevant paperwork as evidence. It could have been a case of the member of staff not understanding the question.

The Licensing Manager referred to the Planning Permission which would be required to alter the premises. He reminded those present that Licensing and Planning were separate regimes. The Applicant's representative stated that a Planning Application would be submitted soon, the Applicant was just awaiting a signature from the owner of the property.

The Licensing Manager referred to one of the conditions from the Community Safety and Neighbourhood Nuisance Team, which would be attached to the application. He asked how the Applicant would ensure that there was no smoking in the outdoor area beyond 10.30pm. The Applicant's representative stated that the Applicant would be firm and say no to people wishing to use the outdoor area to smoke after the permitted time. He stated that the Applicant felt that she could deal with customers appropriately.

The Chairman referred to the plan of the premises which showed only one toilet which was for staff use only and no disabled facilities. The Applicant's representative reminded those present that premises could

operate without a toilet if the café provided seating for less than ten people. The toilet facilities would be relocated as part of the planning application and disabled access would be provided.

Mrs Knights stated that she wished to defend her reputation and had been neighbourly towards the Applicant. She referred to page 27 of the agenda which stated that the premises had been a butchers for the past three years with a premises licence. She clarified that a premises licence had only been granted in 2015, she felt that this was misleading. The Applicant's representative acknowledged that he should have made it clearer on the application.

Mrs Knights asked for clarification on how much seating would be provided in the café. The Applicants representative explained that the regulations only allowed ten seats in the absence of a customer toilet. The application stated 25-30 but this was before the toilet requirements were known. He stated that 25-30 seats was highly unlikely given the size of the premises, but additional customers collecting takeaway orders could add to the amount of people in the premises at any one time.

Mrs Knights asked for clarification on what level of music would be provided. The Applicant's representative explained that background music would be provided, so that customers could still hold a conversation.

Mrs Knights referred to the operating times applied for and felt that there should be a distinction on a Sunday and requested that the Sunday closing time be brought forward to 8.00pm. She stated that she was unsatisfied with the noisy smoking aspect which had an effect on neighbouring properties. She stated that the applicant would be unable to control 25-30 people and sought assurance that the applicant would ensure that there was no smoking outside the premises beyond 10.30pm. She also asked if the Community Safety and Neighbourhood Nuisance Team had an obligation to consult local residents. The Licensing manager clarified that they did not.

The Applicant's representative explained that use of the outside area would be controlled and a Manager would be on duty at all times. The Applicant also lived locally so could attend the premises if required.

Mrs Knights asked if the Applicant had any experience in running a café. The Applicant's representative explained that this was a new venture and she had no previous experience in running a café, but did have experience running a business and she would instruct and manage staff appropriately.

Mrs Knights asked if the outside area would be covered by CCTV. The Applicant's representative agreed to ensure the outside area would be covered by CCTV if required.

6 **OTHER PERSONS CASE**

Mrs P Knights & Mrs Cook

Mrs Knights presented the case on behalf of herself and Mrs Cook. She referred to the questions that she had asked the Applicant relating to trading house, CCTV and background music. She stated that there was no mention of providing rubbish bins or tidying up of the forecourt. She explained that litter was a great concern as it often ended up in neighbouring properties gardens. She referred to the lack of customer toilets and commented that often customers used her garden to relieve themselves as there were no public toilets available in the locality.

Mrs Knights commented that her concerns were not frivolous or vexatious. She did not feel that the Applicant had a responsible attitude when dealing with customers. She stated that she should not have to keep a diary and monitor what was going on at the premises. If the application was granted the Applicant should uphold the interest of the local community and needed to protect the public from irresponsible customers.

Mrs Knights felt that it was inappropriate to open a bar between two residential properties and stated that soon there would be eleven within five minutes of her property. She asked that the effect on local residents be considered. She stated that she was entitled to the quiet enjoyment of her home and that she would report any incidents to the relevant authority.

The Chairman thanked Mrs Knights and invited questions from all parties.

Councillor Miss Sandell referred to the premises licence which had been granted in 2015 and asked Mrs Knights if problems had got worse since the licence had been granted. Mrs Knights explained that it was misleading because shortly after the premises licence had been granted, the Applicant had moved the business to 20 London Road so there was no activity at the premises.

7 **SUMMING UP - THE LICENSING MANAGER**

The Licensing Manager summed up his case. He referred to the Section 182 Guidance as contained in his report. He reminded those present that the Noise Management Plan provided by the Applicant would be subject to Community Safety and Neighbourhood Nuisance Team approval. He reminded those present that Mrs Knights had requested an earlier closing time and CCTV coverage to the front of the premises.

He referred to Section 182 Guidance as contained in his report. He explained that any conditions imposed by the Sub-Committee must be relevant to the promotion of the Licensing Objectives and each Objective was of equal importance.

The Licensing Manager stated that guidance on conditions was contained in his report and any conditions imposed by the Committee needed to be enforceable and precise.

He reminded the Sub-Committee that the planning process and licensing process were separate and the Licensing Committee were not bound by decisions made by the Planning Committee. He reminded those present that a review procedure was available for licensed premises if required.

The Licensing Manager reminded the Sub-Committee that each application should be considered on its own merit.

He informed the Sub-Committee that they should have regard to the representations received and dispose of the application by one of the following methods:

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

The Licensing Manager referred to the history of the premises as detailed in his report. He explained that the premises still benefitted from a licence which had been granted in September 2015, and was still valid. This would be surrendered if the Sub-Committee were minded to grant the licence.

The Sub-Committee was reminded that full reasons for their decision must be given as both the applicant and other persons making representations had a right of appeal against that decision to the Magistrates' Court.

8 **SUMMING UP - THE APPLICANT**

The Applicant's representative, on behalf of the Applicant summed up their case. He referred to the concerns raised by the other persons. He explained that his client would provide waste bins at the premises and the front area would be tidied up with broken tiles being replaced. He reminded those present that a Planning Application would be submitted which would address the concerns raised regarding the provision of a customer toilet. In the meantime customers would be able to make use of the staff toilet if required.

He explained that the Borough Council did not have a cumulative impact policy. He stated that the Applicant would consider the requests put forward by the other persons and be mindful of neighbouring properties. He reminded those present that anyone could call the application in for review if they were experiencing problems.

He stated that his client was conscientious and would control her processes and business and would like the opportunity to undertake a new business venture.

9 **SUMMING UP - OTHER PERSONS**

Mrs P Knights

Mrs Knights explained that she hoped that there would be no problems with the operation of the premises. She referred to the amount of litter she had to pick up and she would be overjoyed if this was no longer a problem. She felt that when people were under the influence of alcohol they did not behave rationally.

She stated that she would report any problems to the appropriate authority. She hoped that the Sub-Committee would take into consideration her request and the concerns she had raised.

10 **OUTSTANDING MATTERS**

The Legal Advisor informed the Sub-Committee that they should consider the application with a view to promoting the Licensing Objectives, specifically the prevention of public nuisance. They should focus on the effect of the licensable activity on people living in the area.

She reminded the Sub-Committee that they had heard from the applicant and also the other persons. The other persons concerns related to people smoking and gathering outside the premises and they had requested an earlier closing time on a Sunday.

The Sub-Committee was reminded that no objections from the Responsible Authorities had been received and the Community Safety and Neighbourhood Nuisance Team were satisfied with the application because of the additional conditions which had been agreed by the Applicant and would be attached to the licence.

The Legal Advisor explained that if the Sub-Committee were minded to impose conditions they should be appropriate and take into account associated costs.

The Sub-Committee were reminded that they should have regard to the Borough Council's Statement of Licensing Policy and the Section 182 Guidance.

11 **REACHING A DECISION**

The Sub-Committee retired to consider its decision in private, accompanied and advised by the Democratic Services Officer and the Legal Advisor on specific points of law and procedure.

On reconvening, the Legal Advisor explained that she had not provided any additional advice to the Committee during the decision making process.

12 **DECISION**

The Chairman read out the Decision as follows:

Findings

The Sub-Committee had due regard to the report of the Licensing Manager, representations put forward in the agenda and the representations put forward at the Hearing.

The Sub-Committee understands and acknowledges the concerns raised by the local residents. They noted that no representations had been made from any Responsible Authorities. The Sub-Committee noted that concerns had initially been raised by the Community Safety and Neighbourhood Nuisance Team, and suggested conditions proposed which the Applicant had agreed to. These would be attached to the Licence. The Sub-Committee place weight on there being no objections from any Responsible Authority.

The Sub-Committee noted that the Applicant expressed willingness to install CCTV at the property.

The Sub-Committee noted that the Planning and Licensing regimes were separate and noted that a Planning Application would be submitted which would include the installation of additional toilet facilities. They noted that the application would be considered by the Planning Committee at the relevant time and that the licensing application today is concerned with the promotion of the licensing objectives. The particular licensing objective engaged at the hearing was the prevention of public nuisance.

The Sub-Committee recognises that there is a low level of Anti-Social behaviour in the area. It accepts that the applicant intends to run the premises responsibly and has a previous track record of compliance with the Licensing Act. However, the Sub-Committee has listened to neighbours' concerns regarding the congregation of persons outside

the premises, smoking and chatting, in the evenings. Particular concern related to Sunday evenings when residents are particularly concerned about disturbance to the enjoyment of their homes. There has been mention of residential gardens being used as a toilet and concerns over rubbish. The Sub-Committee grants the application but imposes conditions to address the licensing objective of the prevention of public nuisance.

Conditions

The mandatory conditions and those consistent with the operating schedule are attached to the licence.

The Sub-Committee acknowledged that the conditions put forward by the Community Safety and Neighbourhood Nuisance Team had now been agreed by the Applicant and would be attached to the Licence.

The Sub-Committee referred to the statement made by the Applicant's Representative in that they had agreed to install CCTV to the front of the Premises. The Sub-Committee attach the following condition to the licence:

A digital CCTV system shall be maintained at the premises which shall record the front of the premises. Images must be capable of being downloaded in a digital format upon reasonable request from representatives of the Police and Licensing Authority. All staff on duty must be trained in the use of the system and be able to comply with such request. The system to be maintained in good working order at all times. A CCTV monitor will be positioned so that a member of staff will be capable of seeing images from the camera.

The Sub-Committee considered the request made by the other persons present and the prevention of public nuisance licensing objective and the Sub-Committee reduces the operating times of the premises to 10.00pm on a Sunday.

The Sub-Committee suggested that consideration be given to the area outside of the premises, and attached a condition to the licence that a regular litter patrol takes place immediately outside of the premises which includes the picking up and proper disposal up of any rubbish found.

The imposed conditions are considered appropriate to address concerns regarding the limited toilet facilities, so far as this relates to the prevention of public nuisance and the noise and litter caused from the congregation of persons outside this premises, smoking and chatting in the evenings. It is considered that the above conditions are appropriate to promote the licensing objective of the prevention of public nuisance.

Determination

The Sub-Committee grant the application for a premises licence for Lietuviska Uzeiga, 4 London Road, King's Lynn, subject to the addition of the above mentioned conditions to the licence.

Right of Appeal

It was noted that both the applicant and persons making representations had a right of appeal against that 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 meeting closed at 12.20 pm