

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

**LICENSING COMMITTEE**

**Minutes from the Meeting of the Licensing Committee held on Friday, 30th September, 2016 at 10.00 am in the Committee Suite, King's Court, Chapel Street, King's Lynn**

**PRESENT:** Councillors C J Crofts, C Manning and Miss S Sandell

**OFFICERS:**

Alexa Baker – Legal Advisor  
Vicki Hopps – Environmental Health Manager  
Rebecca Parker – Democratic Services Manager

1 **APOLOGIES FOR ABSENCE**

There were no apologies for absence.

2 **ITEMS OF URGENT BUSINESS**

There was none.

3 **DECLARATIONS OF INTERESTS**

There was none.

4 **TO CONSIDER AN APPLICATION FOR BALTIC STORES, 33 OLD SUNWAY, 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 Baltic Stores, 33 Old Sunway, King's Lynn.

He introduced the Sub-Committee, the Borough Councillor offices and the legal Advisor and explained their roles.

The Applicant's representative introduced himself and the Applicant. The Applicant was accompanied by a Russian Translator and Ruslan Vasilevskij who was the leaseholder of the premises.

The Responsible Authorities present introduced themselves.

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

## 5 **PROCEDURE WHICH WILL BE FOLLOWED AT THE HEARING**

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

## 6 **REPORT OF THE ENVIRONMENTAL HEALTH MANAGER**

The Environmental Health Manager presented her report and provided an overview of the application. In presenting her report, the Environmental Health Manager referred to the following:

- The application, which had been included with the Agenda.
- The mandatory conditions, conditions consistent with the operating schedule and conditions which could be imposed by the Sub-Committee.
- The four principles of the Licensing Act.
- There had been representations from Norfolk Constabulary and Norfolk Trading Standards.
- The Borough Council's Statement of Licensing Policy and Section 182 Guidance.

The Chairman thanked the Environmental Health Manager for her report. There were no questions.

## 7 **THE APPLICANTS CASE**

The Applicant's representative presented the Applicant's case. He explained that the application had been made on 1<sup>st</sup> July 2016 for the premises at 33 Old Sunway, King's Lynn. The premises was a convenience store, which currently could not sell alcohol. The representative explained that the current tenant of the premises to which the application related was Litexport Ltd which was a wholesale supplier of Eastern European foods. It was denied that Jurij Kravcuk (the husband of the applicant) was the director of this company, as alleged by the Responsible Authorities, and the Applicant's representative stated that he had documents available to prove it. The representative explained that the director of that company was Ruslan Vasilevskij, who appeared with the applicant at the hearing, and described himself as a friend of Mr Kravcuk.

The Sub-Committee heard that the applicant was a Holder of a personal licence and that she had experience with running similar premises in a different Local Authority area, where she had acted as a supervisor and trained staff.

The representative stated that the current tenant, Mr Vasilevskij, wished to divest himself of the tenancy of the premises and the applicant wished to take over, which was said to not be viable without a premises licence to sell alcohol. It was put forward that the applicant

had the knowledge and experience and was familiar with licensing requirements and conditions of a premises licence.

The representative confirmed that the applicant and her husband had separated and denied that this application was designed to circumvent the rejection of the husband's previous application. Representations were made that the applicant wished to set up a new life and move on from her previous relationship, whilst supporting her children.

The Applicant's representative explained that the Responsible Authorities objections to the application related to the Applicants relationship with her former partner. However, he stated that none of her partners previous history had anything to do with his client and she had not been asked to be interviewed, or the subject of a police investigation.

The representative submitted that the applicant had no previous bad character and the content of the objections by the Responsible Authorities could not be attributed to the applicant.

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

The Environmental Health Manager asked the Applicant to clarify the connection between her former partner and Litexport Ltd, as when he had applied for a licence previously he was listed as the Designated Premises Supervisor. Mr Vasilevskij stated that Mr Kravcuk had never had a position within the company.

Brian Chatterern from Norfolk Trading Standards referred to the previous application for a Licence for Baltic Store, which had originally been submitted in Mr Kravcuk's name and then changed to Litexport Ltd and that Mr Kravcuk had been listed as Manager in previous documentation.

Mr Vasilevskij explained that Mr Kravcuk had helped him in starting up the business as he was a new comer and did not have a personal licence at the time. The intention was to transfer the licence over once everything was in place.

The Police asked questions pertaining to the relationship between the Applicant and Mr Kravcuk and highlighted that the applicant had stated that the relationship had ended in the last two weeks, however, the application for a premises licence was dated in July.

The Police asked how often the Applicant worked at the other shops she had been involved in and the Applicant explained that she managed two premises in Boston and was usually there five days a week.

In response to a question from the Police, the Applicant confirmed that she was still living at the address listed on the application.

The Police referred to infringements of the licences which had happened in connection with the two premises in Boston, including the sale of cigarettes and alcohol to an underage customer and failure to comply with CCTV conditions. The Police asked if the Applicant was aware of the incidents and the applicant stated that she was not running the store at the time, she was involved in training members of staff.

The Police asked further questions of the Applicant regarding the breakdown of her relationship with Mr Kravcuk. The Police commented that if the Applicant wanted to make a fresh start, why she would choose premises which were leased by a good friend of her ex-partner.

The Police asked Mr Vasilevskij if he was still linked to Mr Kravcuk and he explained that they still kept in touch.

Councillor Manning referred to the Applicants involvement in previous premises and how she had stated that she was involved in training staff. Councillor Manning asked if the staff that she had trained were the ones which breached objectives and sold to underage customers. He asked how she would ensure that this would not happen again. The Applicant explained that she would work in the shop five days a week and intended on employing one further lady on a part time basis, and would like her to get her own personal licence.

The Chairman, Councillor Crofts, referred to the application, contained within the Agenda and stated that under Public Safety, the Applicant had put down "training of underage ID check". The Chairman asked for clarification on what this meant and the Applicant explained that she would train staff to check ID properly.

The Chairman also referred to the mention on the application form of maintaining the premises in good order. The Applicant explained that this would be done by regularly checking the premises herself and ensuring that CCTV and relevant equipment was in place and checked on a regular basis.

The Chairman asked what training the Applicant had received. The Applicant explained that when she applied for a Personal Licence she received some training in London, but could not remember the name of the Company. She stated that she had the relevant paperwork at home if required.

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## **RESPONSIBLE AUTHORITIES CASE**

### **(i) Norfolk Constabulary**

The Police informed those present that some of the information they would like to share with the Committee was of a sensitive nature and related to ongoing Police investigations. It was therefore proposed that the Hearing continued in closed session.

**RESOLVED:** That in accordance with Regulation 14(2) of the Licensing Act 2003 (Hearing Regulations) 2005, the press and public be excluded from the Hearing.

Norfolk Constabulary, as a Responsible Authority, presented their case. They objected to the granting of a licence on the grounds that the licensing objectives of crime and disorder would be undermined and the applicant was not a fit and proper person by virtue of her connections to Mr Kravcuk. Norfolk Constabulary expressed very grave concerns that the applicant was intrinsically linked to her husband. It was highlighted that this application pre-dated the applicant's recent alleged separation from her husband and yet she continued with it. Norfolk Constabulary further highlighted that the applicant sought to run the premises currently leased by the friend of her husband. It was submitted that the applicant would be subject to economic and emotional pressures from her husband and he would continue to influence her.

Norfolk Constabulary confirmed that a number of interventions in relation to infringements of a premises licence had been made in relation to a premises in Lincolnshire that the applicant accepts she was involved with. The applicant confirmed that she trained staff at this premises. Questions were asked and answered of Norfolk Constabulary.

Police intelligence was shared with the Sub-Committee.

The Applicant's representative requested a short recess so that he could discuss the Police intelligence with his client.

The Hearing adjourned at 11.00am

The Hearing reconvened at 11.15am.

Those present were reminded that the Hearing was still being held in closed session.

The Chairman invited questions from all parties to the Police.

The Police were asked questions relating to the intelligence they had shared at the Hearing.

## **(ii) Norfolk Trading Standards**

Norfolk County Council Trading Standards, as a Responsible Authority, presented their case. They objected to the granting of a licence on the

basis that they had concluded there was a continued association between the applicant and her husband and this would result in the licensing objective of crime and disorder being undermined.

The Sub-Committee were provided with details of interventions made by Norfolk Trading Standards, Lincolnshire Trading Standards and the HMRC.

The Chairman invited questions from all parties to Norfolk Trading Standards.

Brian Chatterern responded to questions from all parties.

## 9 **SUMMING UP - THE ENVIRONMENTAL HEALTH MANAGER**

The Environmental Health Manager summed up her case. She referred to the representations put forward at the Hearing and dispose of the applications using one of the methods as set out in her report.

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

## 10 **SUMMING UP - THE APPLICANT**

The Applicant's Representative summed up the Applicant's case. He reminded the Sub-Committee that each application should be considered on its own merits and stated that the objections raised by the Responsible Authorities related to the Committee's refusal of an application from her former partner.

The representative explained that his client had no previous convictions and wanted to use this opportunity for a fresh start. He stated that she would comply with the conditions of the licence, and had experience in previous shops she had been involved with.

He referred to the intelligence provided by the police and stated that it was just intelligence, and it had not resulted in any prosecutions by Norfolk Trading Standards and his client had not been implicated.

He stated that the business would only be viable if the Applicant was permitted to sell alcohol.

## 11 **SUMMING UP - RESPONSIBLE AUTHORITIES**

### **(i) Norfolk Constabulary**

The representatives from the Police summed up their case. The Police did not feel that the applicant would be removing herself from her past and the influence of her former partner by running the premises. The Sub-Committee was also reminded that the application pre-dated her breakdown of relationship with her former partner.

The Police referred to some of the incidents which had been reported earlier on in the meeting.

### **Norfolk Trading Standards**

Brian Chatterton from Norfolk Trading Standards summed up his case. He reiterated the comments made by the Police and did not feel that granting this application would assist in giving the applicant a fresh start and distance herself from her former partner.

## 12 **OUTSTANDING MATTERS**

Councillor Sandell asked questions of the Applicant relating to her former partner.

The Legal Advisor confirmed there were no outstanding matters.

## 13 **REACHING A DECISION**

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

RETURN TO OPEN SESSION

## 14 **DECISION**

### **FINDINGS**

The Sub-Committee had due regard to the report of the Environmental Health Manager, representations put forward in the agenda and the representations put forward at the Hearing by Norfolk Constabulary, Norfolk County Council Trading Standards and the Applicant about concerns relating to the licensing objectives.

The Sub-Committee only considered relevant representations and balanced the interests of the Applicant with the interests of the Responsible Authorities who made representations.

The Sub-Committee notes that the Licensing Authority's policy and the Statutory Guidance requires the Sub-Committee to look to the police as the main source of advice on crime and disorder.

The Sub-Committee noted that the Responsible Authorities have very significant concerns about the applicant's husband Mr Jurij Kravcuk that would directly undermine the licensing objective of preventing crime and disorder. Mr Kravcuk was a prior applicant for a premises licence in relation to 33 Old Sunway. The Sub-Committee noted that the present application was made on 1 July 2016 after Mr Kravcuk's application for a premises licence was rejected. The applicant stated when asked that she had separated from her husband two weeks ago, yet this had not compelled the applicant to withdraw this application. The Sub-Committee found this indicated a continued connection between the applicant and her husband and was not persuaded by the applicant's assertions that she was trying to move away from him and start a new life. The Sub-Committee further noted that the applicant chose to bring along Ruslan Vasilevskij in support of her application, who confirmed he was a friend of the husband and was the owner of the company to which the applicant's husband had very strong links. The Sub-Committee therefore accepts the Responsible Authorities' concerns that the applicant would remain under economic and emotional pressures from her husband and Mr Vasilevskij which would significantly undermine the licensing objective of preventing of crime and disorder.

The Sub-Committee found that the applicant had previously been responsible for the training of staff at a similar premises in Lincolnshire, where a number of interventions had been made in relation to infringements of a premises licence, to include the sale of tobacco to underage children. The Sub-Committee is concerned that despite the applicant saying that she had received training pursuant to her personal licence, there were repeated incidents of infringements of a premises licence at a premises where she was responsible for training. In these circumstances the Sub-Committee finds that this directly relates to the licensing objective of the protection of children from harm.

### **DETERMINATION**

The Sub-Committee refuses the application for a Premises Licence for Baltic Store, 33 Old Sunway, King's Lynn as they feel that, on the basis of the information presented to it, the application would undermine all of the Licensing Objectives:

- The prevention of crime and disorder
- The protection of children from harm.

**The meeting closed at 1.29 pm**