

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

**Minutes from the Meeting of the Licensing Committee held on Wednesday,
25th October, 2023 at 10.00 am in the Council Chamber, Town Hall,
Saturday Market Place, King's Lynn PE30 5DQ**

PRESENT: Councillor M Bartrum (Chair)
Councillors M Bartrum, J Rust and D Tyler

OFFICERS:

James Arrandale - Legal Advisor
Marie Malt - Licensing Service Manager
Kathy Wagg - Democratic Services Officer

1 APOLOGIES FOR ABSENCE

There were no apologies for absence.

2 ITEMS OF URGENT BUSINESS

There was no urgent business.

3 DECLARATIONS OF INTERESTS

There was no declarations of interest.

**4 TO CONSIDER A REVIEW OF A PREMISES LICENCE FOR THE
SPICE INN, 2 LONDON ROAD, KING'S LYNN, PE30 5PY**

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The Licensing Officer advised that at 9.20 am that morning the premises licence had been surrendered. She explained that the applicant's agent wished to know what the next steps would be. She suggested that the hearing should still proceed as the Sub-Committee was considering an application for a licence that was in place at the time that the application for a review was submitted.

The licence holder's agent stated that the same outcome could be achieved should the licence be suspended at this stage, and it was not a way to circumnavigate any conditions imposed but it would be the case of having to make a re-application for a new licence at some stage. The person who would be making the new application would still have to be subject to scrutiny and objections. He considered that by dispensing of the hearing would be a way of reaching the same outcome in a far quicker and more effective manner.

He further added that because the premises licence had been surrendered the Mr Shahin was no longer the Licence Holder as of 9.20 am therefore there was no risk that alcohol would be sold until a new licence was in place and also the late-night supply of food would no longer be in place. Looking at Section 28 of the Licensing Act with regard to surrendering of licences, it took immediate effect so he was no longer the Licence Holder so he did not see why the hearing should proceed and should be dispensed with. There would be a time where there could be another hearing in relation to an application for a new Licence Holder for a licence where it would be determined or not.

The Licensing Officer advised that it was important to point out that when a licence was surrendered there was the ability to reinstate it after 28 days. At that stage if someone else applied and they were not suitable then objections could be made. However, there would be no record of this hearing or the review application that had been submitted.

The Chair advised that the hearing should proceed having listened to both the Licencing Officer and Licence Holder's representative. The Licence Holder's representative asked for the reasons why it should proceed to be given in writing.

The Chair welcomed everyone to the meeting and declared that the Sub-Committee was sitting to consider a review of a premises licence for The Spice Inn, 2 London Road, King's Lynn.

The Sub-Committee, Borough Council Officers and Legal Advisor were introduced, and their roles explained.

The Licence Holder, his representative and Officers from the Home Office introduced themselves.

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

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

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

6 **REPORT OF THE LICENSING OFFICER**

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At the request of the Chair, the Licensing Officer presented the report as included in the agenda and provided details of the application made by the Home Office Immigration Enforcement Team to review the

premises licence under the prevention of crime and disorder licensing objective.

She reminded the Sub-Committee that at 9.20 am that morning the premises licence had been surrendered.

The Sub-Committee was informed that the Home Office as a responsible authority had made the review application but there were no comments from the remaining responsible authorities or other persons to consider.

There was specific mention within the Section 182 guidance about this matter which was read out to the Sub-Committee for their information.

There were no questions from the Home Office.

There were no questions from the Licence Holder or his representative.

There were no questions from the Sub-Committee.

7

APPLICANT'S CASE

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At the request of the Chair, the Home Office representative summarised the case and explained that the Immigration Enforcement Team were intelligence led and in this particular case intelligence had been received suggesting that this restaurant had been employing people who were not lawfully working, which had resulted in the visit.

The Home Office representative explained that they did not seek routinely to have licences reviewed but do so in selected cases where there were heightened concerns and this being one of the cases. The concerns related to the number of offenders found working at the premises and that there had been a significant increase in immigration enforcement activity across Norfolk and north of Suffolk which had shown that there were an increasing number of illegal workers employed in various businesses where licenses had been held and there had been several other licence reviews conducted across Norfolk and Suffolk relating to immigration offences.

There were no questions from the Licensing Officer.

There were no questions from the Licence Holder.

There were no questions from the Sub-Committee.

8

LICENCE HOLDERS CASE

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At the request of the Chair the Licence Holders representative presented the case on behalf of the Licence Holder. He explained that the Licence Holder had been experiencing economic challenges and had made the wrong choice in employing immigrant workers. He has reflected on this and has worked out a new sustainable model going forward.

He provided examples of how the Licence Holder would be making changes to the business model and he would also look to bring in a new DPS.

He added that he hoped that the Committee would consider adding additional conditions to the licence rather than revoking it. Mr Shahin was sorry, and it would not happen again.

The Licensing Officer referred to the fact that the premises licence had been held for 9 years. The DPS should be in day-to-day control of the premises, but it had been suggested that it might be something that the Sub-Committee may consider changing. She asked that during the 9 years, how were alcohol sales authorised at the premises.

In response the Licence Holder's representative advised that it would have been done verbally by the DPS.

She also asked if the licence holder was a DPS anywhere else. It was confirmed that he was not.

The Licence Holder explained that he had not been at the premises for many days throughout the week.

The Home Office had no questions.

Councillor Rust added that the law had been broken by not paying the national minimum wage to employees, which was a consideration. She asked what steps the Licence Holder had taken to ensure that the national minimum wage would be paid.

In response the Licence Holder stated that the pay would be correct in the future.

Councillor Rust also made reference to the fact that it had been said that a competent and capable person would be appointed to run the business and it had been implied that they were already in place. She asked what evidence was there to demonstrate this?

In response the Licence Holder's representative explained that should the licence be revoked then there would be an application for a new

premises licence holder to be in place. The DPS who had been alluded to was a competent, experienced upstanding member of the community who would also be open to scrutiny from the objections and the responsible authorities when the application was made.

9 **SUMMING UP - LICENSING OFFICER**

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The Licensing Officer summed up her case and reminded the Sub-Committee that they should consider all the information included in the Agenda and put forward at the Hearing today and dispose of the matter using one of the methods as set out in the report.

10 **SUMMING UP - LICENCE HOLDER**

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The Licence Holder's representative summed up the case.

11 **SUMMING UP - RESPONSIBLE AUTHORITY**

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The Officers from the Home Office Immigration Enforcement Team summed up their case.

12 **OUTSTANDING MATTERS**

The Legal Adviser stated that there were no outstanding matters.

13 **DECISION**

The Chair explained that the Sub-Committee would retire to make their decision in private, accompanied by the Democratic Services Officer for administrative purposes and the Legal Advisor for specific points of law and procedure.

All parties were then called back into the room and the decision of the Sub-Committee was read out. A copy of the decision notice is attached.

The meeting closed at 10.47 am

LICENSING SUB-COMMITTEE**DETERMINATION NOTICE****APPLICATION FOR A REVIEW OF A PREMISES LICENCE**

Date of Hearing	25th October 2023
Sub-Committee Members	Councillors Micaela Bartrum (Chair) Councillor Jo Rust Councillor Donald Tyler
Legal Adviser	James Arrandale
Licensing Officer	Marie Malt – Licensing Service Manager
Democratic Services Officer	Kathy Wagg
Licence Holder	Mr Abdul Shahin
Responsible Authority	Home Office
Premises Address	The Spice Inn, 2 London Road, King’s Lynn, Norfolk
Application	Application for a review of a premises licence

APPLICATION

Kings Lynn and West Norfolk Borough Council, being the relevant licensing authority, received an application from Home Office Immigration Enforcement to review the premises licence for the Spice Inn under the “prevention of crime and disorder” licensing objective.

There were no representations from other “responsible authorities” or “other persons” to consider.

HEARING

On 25th October 2023, a hearing was held to consider the review of the premises licence. 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 Sub-Committee listened to all the evidence and submissions. It heard from:

- The Licensing Officer
- The Home Office
- The Licence Holder’s representative Mr Paul Byatt

SUMMARY OF EVIDENCE

The Licensing Officer presented her report and outlined the application submitted and responded to questions from all parties. A copy of the application was attached to the report.

The Applicant presented his case and responded to questions from all parties. The Licence Holder’s representative presented his case and responded to questions from all parties.

The parties all summed up.

FINDINGS AND DETERMINATION

The Sub-Committee considered the evidence in the report, as well as the written and oral evidence of all parties put forward at the Hearing.

The Sub-Committee noted that the Respondent had surrendered his Licence on the morning of this hearing. However, the Sub-Committee also noted that the Licence was available to be transferred for 28 days after surrender. The Sub-Committee therefore determined to hear the application.

The Sub-Committee noted the illegal immigration offences and the failure to pay the living wage, in the context of the crime and disorder objectives of the licensing regime.

The Sub-Committee also noted the discrepancies between the respondent’s statements to the Home Office and the other evidence presented by the Home Office.

The Sub-Committee considered the importance of upholding the licensing objectives firmly in this case, in the interests of the wider business community.

The Sub-Committee considered the alternatives put forward by the respondent’s representative, of imposing further conditions on the Licence or imposing a three-month suspension. The Sub-Committee agreed with the observations of the Home Office representative that conditions should not duplicate the provisions of legislation. The Sub-Committee did not consider that suspension was appropriate.

The Sub-Committee therefore determined to revoke the Licence.

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.

Signed.....*M Bartrum*.....
Councillor Micaela Bartrum (Chair of the Sub-Committee)

Date: 25th October 2023