

BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK

LICENSING COMMITTEE

Minutes from the Meeting of the Licensing Committee held on Wednesday, 23rd August, 2017 at 10.00 am in the Committee Suite, King's Court, Chapel Street, King's Lynn, PE30 1EX

PRESENT: Councillor C J Crofts (Chairman)
Councillors Mrs S Fraser and Miss S Sandell

OFFICERS:

Noel Doran – Legal Advisor
John Gilbraith – Licensing Manager
Rebecca Parker – 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 AN APPLICATION FOR A REVIEW OF A PREMISES LICENCE FOR N JOY, NORFOLK STREET, KING'S LYNN**

The Chairman welcomed everyone to the meeting and declared that the Sub-Committee was sitting to consider a review application for N Joy, 120 Norfolk Street, King's Lynn. He introduced the Sub-Committee, the Borough Council officers and the legal Advisor and explained their roles.

The representatives from Norfolk Constabulary, Chris Brooks and Andy Owens introduced themselves.

The Responsible Authorities present, Jos Girling and Tony White from Norfolk Fire and Rescue and Anthony Drown and Jacki Pepper from the Borough Council's Non Domestic Rates team introduced themselves.

It was noted that the Licence Holder was not present at the Hearing, the Sub-Committee decided to proceed with the Hearing in his absence. The Licensing Manager explained that the Licence Holder

had been invited to attend the Hearing and had been sent a copy of the Agenda.

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 LICENSING MANAGER**

The Licensing Manager presented his report to the Sub Committee. The Licensing Manager explained that at any stage, following the grant of a premises licence, a 'responsible authority' or '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. The Licensing Manager explained that Norfolk Constabulary had made an application to review the premises licence under the prevention of crime and disorder licensing objective. The Licensing Manager made reference to the following:

- The Review application from Norfolk Constabulary, which had been included in the Licensing Managers report.
- Norfolk Fire and Rescue Service and the Non Domestic Rates Section at the Borough Council had supported the review application, and copies of their representations were included in the Licensing Managers report.
- No representations had been received from 'other persons'.
- The Borough Council had advertised the review by notice at the premises, a notice at the Borough Council Offices and publication on the Council's website.
- A location map of the premises was included in the Licensing Managers report.
- The Sub-Committee would need to have regard to the King's Lynn and West Norfolk Borough Council's Licensing Policy and Statutory Guidance issued under the Licensing Act 2003.
- The options available to the Sub-Committee.
- Norfolk Police had requested that the Licence be revoked.

There were no questions to the Licensing Manager.

7 **THE APPLICANTS CASE - NORFOLK CONSTABULARY**

Chris Brooks from Norfolk Constabulary presented his case. He stated that the Police sought the revocation of the premises licence as there had been a number of disorder incidents and breaches of the Premises Licence. Chris Brooks provided a timeline of events which had been included in the review application and set out on page 25 of the Licensing Manager's report.

He explained that on 13th June 2017 the owner of the premises and bailiffs attended the premises and discovered a cannabis factory on the second floor of the premises. The premises licence holder had been arrested and had admitted the production of the drugs and explained how he had diverted electricity from the junction box to feed the supply to the cannabis factory.

Chris Brooks explained that several interventions had been carried out with the premises licence holder for breaches of the premises licence and warning letters had been sent.

Andy Owens explained that the Police had tried to work with the premises licence holder on several occasions, but after the discovery of the Cannabis factory it was felt that there was no other realistic option than to call for a review of the premises licence.

Andy Owens referred to the Home Office Guidance, which had been included in the Licensing Managers report, specifically paragraphs 11.24 to 11.27 which provided guidance on reviews arising in connection with crime.

In response to a question from the Licensing Manager, Chris Brooks explained that the premises licence holder would be prosecuted for the offences arising from his activities. The Licensing Manager explained that this was a completely separate issue and the Sub-Committee were not considering whether or not the licence holder was guilty of the criminal offences.

In response to a question from Councillor Mrs Fraser, Andy Owens confirmed that there was no evidence that drugs were being sold within the licensed premises, however there were over sixty plants and the licence holder had spent £3,000 to £4,000 on them, which was far in excess of personal consumption. A set of electronic scales were found at the premises and the plants must have been grown to be sold.

8 **THE RESPONSIBLE AUTHORITIES CASE - NORFOLK FIRE AND RESCUE**

Jos Girling from Norfolk Fire and Rescue presented her case. She explained that there had been a number of breaches at the property and on 24th November 2015 a prohibition notice was issued after Fire Safety Officers attended the premises and found people living in rooms on the first and second floors without adequate protection from fire.

Jos Girling provided a timeline of events, as set out in page 61 of the Licensing Managers Report which showed total disregard to the prohibition notice and the safety of persons sleeping at the premises

There were no questions to Norfolk Fire and Rescue Service.

9 **THE RESPONSIBLE AUTHORITIES CASE - BOROUGH COUNCIL
NON DOMESTIC RATES TEAM**

Anthony Drown from the Non Domestic Rates Team at the Borough Council presented his case. He explained that there were extensive arrears for Non-Domestic Rates and Council Tax on the premises.

In response to a question from Councillor Fraser, the total liability for Non Domestic Rates and Council Tax were confirmed. It was explained that recovery options had not so far been successful.

10 **SUMMING UP - THE LICENSING MANAGER**

The Licensing Manager summed up his case. He reminded the Sub-Committee that Norfolk Constabulary had submitted the review application and Norfolk Fire and Rescue Service and the Borough Council had made representations. He reminded the Sub-Committee of the Borough Council's Statement of Licensing Policy and the Section 182 Guidance. He explained that the Police had provided information of incidents when the premises licence had been breached and this meant that activities at the time were unlicensed, which the licence holder could have been prosecuted for.

The Licensing Sub-Committee were requested to consider the application, and take such steps it considered appropriate for the promotion of the four licensing objectives. Steps available 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).
- (c) To exclude a licensable activity from the scope of the licence, for example to exclude the sale of alcohol.
- (d) To remove the Designates Premises Supervisor, for example, because they consider that the problems are the result of poor management.
- (e) To suspend the licence for a period not exceeding three months.
- (f) To revoke the licence.

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

11 **SUMMING UP - NORFOLK FIRE AND RESCUE**

Jos Girling reminded the Sub-Committee of the safety issues concerning the premises and the prohibition notice would remain in place until appropriate works had been carried out.

12 **SUMMING UP - BOROUGH COUNCIL NON DOMESTIC RATES**

The Non Domestic Rates Team confirmed that they had nothing further to add to their case.

13 **SUMMING UP - NORFOLK CONSTABULARY**

Chris Brooks referred to the evidence contained within the Agenda and presented to the Hearing and explained that this demonstrated that the licence holder should not continue to hold a licence. He reminded the Sub-Committee of the discovery of the Cannabis factory and explained that although there was no evidence that he was supplying drugs to the licensed premises there was evidence of electronic scales at the premises which he wouldn't need if it was a personal supply. There had also been reports of odour in the vicinity. He reminded the Sub-Committee that Norfolk Constabulary sought revocation of the premises licence.

14 **OUTSTANDING MATTERS**

The Legal Advisor stated that there were no outstanding matters.

15 **REACHING A DECISION**

The Sub-Committee retired to consider its decision in private, accompanied by the Democratic Services Office and the Legal Advisor for procedural or advisory support.

16 **DECISION**

DETERMINATION

The Sub-Committee only considered relevant representations in coming to its decision.

The Sub-Committee notes that the Norfolk Constabulary, as a Responsible Authority, has applied for the review of this premises licence on the basis that activities undertaken at the licensed premises seriously undermine the statutory objective of preventing crime and disorder and that the licence holder has demonstrated that he is unable to promote the crime and disorder objective. This application is supported by the Norfolk Fire and Rescue Service and the Borough Council's Business Rates Team.

The Sub-Committee notes that neither the licence holder nor any representative on his behalf appeared at the hearing or submitted any representations in response to this application.

On the basis of the information presented to it, the Sub-Committee is satisfied that the activities that were undertaken at the licensed premises undermine the statutory objective of preventing crime and disorder. In addition, the Sub-Committee considers that the activities undertaken at the premises and the way in which the premises were managed, resulting in regular licence breaches and ongoing regulatory breaches, undermine the statutory objectives of public safety and the prevention of public nuisance to the extent that the licence holder is clearly unsuitable to hold a premises licence.

DECISION

The Sub-Committee revokes the Premises Licence for N Joy, 120 Norfolk Street, King's Lynn on the basis that it considers that activities undertaken at the licensed premises and the way in which the premises were managed undermine the primary statutory objective of preventing crime and disorder as well as the statutory objectives of public safety and the prevention of public nuisance.

RIGHT OF APPEAL

There is a right of appeal against this decision to the Magistrates Court, available to both the Applicant and the persons making representations. An appeal must be commenced within 21 days beginning with the day on which notification of this decision is received. Independent legal advice may be sought from a solicitor or the Citizens Advice Bureau regarding this if consideration is being given to lodging an appeal.

The meeting closed at 11.20 am