

LICENSING SUB-COMMITTEE

DETERMINATION NOTICE

Date of Hearing	4th August 2020 at 10.00am
Sub-Committee Members	Councillors S Sandell (Chair), D Tyler and D Whitby
Legal Adviser	Hema Patel
Licensing Officer	Marie Malt, Senior Licensing Officer
Democratic Services Officer	Rebecca Parker
Applicant's Name	Jason Crown (accompanied by Nicky Crown)
Other Persons present	Paul Hoskins Marcus Curran Councillor Brian Long Councillor Paul Kunes Robert Waters
Premises Address	WhataHoot Ltd, 7a King Street, King's Lynn, PE30 1ET
Application	Application for a Premises Licence

APPLICATION

Kings Lynn and West Norfolk Borough Council, being the relevant licensing authority, received an application for a Premises Licence for WhataHoot Ltd, 7a King Street, King's Lynn, Norfolk, PE30 1ET.

During the 28 day representation period, the Council received representations from the following:

RESPONSIBLE AUTHORITIES

There were no representations from any of the responsible authorities to consider.

OTHER PERSONS

There were thirty seven representations from 'Other Persons' to consider. Twenty one were objections and sixteen were supporting the application. Details of the representations were attached to the Licensing Officer's report before the Licensing Sub-Committee at Appendix 2.

HEARING

On 4th August 2020, a hearing was held to consider the application for the premises licence. Due to the coronavirus (COVID-19) pandemic, the hearing was conducted remotely. 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 Human Rights Act 1998.

The Sub-Committee listened to all the evidence and submissions. It heard from:

- The Licensing Officer;
- The Applicant;
- Paul Hoskins;
- Marcus Curran;
- Councillor Brian Long;
- Councillor Paul Kunes.

SUMMARY OF EVIDENCE

The Licensing Officer presented her report and answered questions from all parties. She outlined that a number of responsible authorities had attended the premises. She highlighted that Norfolk Constabulary had initially raised representations in relation to CCTV and incidents and refusals but confirmed that conditions had been agreed with the Applicant. Conditions were also proposed by CSNN and agreed with the Applicant.

In relation to the 'conditions consistent with the operating schedule,' the Licensing Officer explained that conditions (a) and (b) (set out on page 10 of the Licensing Officer's report) replicate one another.

Furthermore, for the avoidance of doubt, the Licensing Officer also confirmed that there was an administrative error at page 7 of her report which outlined the agreed condition, 'Sale of Alcohol by Retail Off the premises,' as:

Monday to Saturday: 9am-11pm
Sundays & Bank/Public Holidays: 10am-10pm.

However, this should have been outlined as:

Monday to Saturday: 9am-11pm
Sundays & Bank/Public Holidays: 10am-8pm.

The Licensing Officer confirmed that item (h) of the 'conditions consistent with the operating schedule' (page 10 of the Licensing Officer's Report) sets out the agreed Sunday & Bank/Public Holidays times as 10:00-20:00 in relation to the sale of alcohol for consumption off the premises.

The Applicant presented his case and answered questions from all parties. He provided a background to the business and is hopeful that it will draw visitors into the town. However, he understood that are concerns and highlighted that he has adjusted the application to take account of these concerns. He reassured all those present that he has considered the four licensing objectives and explained the measures he had implemented, some of which were of great personal cost.

The 'Other Persons' present presented their case and answered questions from all parties.

The two objectors present expressed their concerns that the premises was in an unsuitable location given that it was in a predominantly residential area.

Mr Hoskins raised concerns relating to the potential for anti-social behaviour, safety factors in and around the premises and public nuisance. He stated that the potential for disruption and disturbance is real. He also pointed out that the premises adjoins his property and that there are three windows that sit in the garden wall.

Mr Curran raised issues namely in relation to the fact that the premises directly adjoins his property. He was largely concerned with the windows of the premises, one of which he stated is sizeable and overlooks his garden. He was therefore concerned on the impact this would have on the enjoyment of his residential amenity and the ability to enjoy his garden in peace and quiet. He was disappointed that the Licensing Authority had not visited his premises/garden to see this for themselves.

Councillor Long and Councillor Kunes both outlined their support for the application.

FINDINGS

The Sub-Committee considered the report of the Licensing Officer, a video/virtual tour of the premises, the written representations made and the oral representations put forward at the hearing.

The Sub-Committee were of the view that the Applicant had gone above and beyond and they were impressed by the measures in place at the premises, for example, the biometric access. They felt that the Applicant had been fair and reasonable.

The Sub-Committee also gave weight to the fact that no responsible authorities had made representations. The Panel were of the opinion that representations from responsible authorities are an important consideration and that they should take heed of statutory bodies.

The Sub-Committee considered the views of the 'Other Persons.' The Sub-Committee noted that Mr Curran raised concerns in relation to the location of the windows on the premises and that this would have a negative impact on his right to amenity. Legal advice was provided to the effect that these concerns fell outside the scope of the licensing regime.

The Sub-Committee were referred to the 'Revised Guidance issued under section 182 of the Licensing Act 2003,' namely the section relating to public nuisance which states that,

"Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods."

The Sub-Committee were mindful that public nuisance was raised as a concern on a number of occasions by the other 'Other Persons' and sought to rectify this by reducing the operating hours of the premises and the sale of alcohol (off premises) hours in the late evening.

To that end, the Sub-Committee grants the application but imposes the following conditions.

CONDITIONS

The following conditions were found to be appropriate:

1. The mandatory conditions applicable under the Licensing Act 2003;
2. The conditions consistent with the operating schedule as detailed in the report, save for:
 - The sale of alcohol for consumption off the premises (item (h)); **and**
 - The premises must not be open to, nor offer the sale of alcohol to any persons present other than those with pre-booked gin or cocktail experiences, distillery tours and masterclasses (item (i)).

Both are varied and set out in the imposed conditions below;

3. The imposed conditions.

The following additional conditions were imposed by the Sub-Committee:

Condition 1

The premises opening hours shall be:

Monday-Saturday: 09:00-22:30

Sundays: 10:00-22:30.

Condition 2

The hours for the sale of alcohol by retail (for consumption off the premises) shall be:

Monday-Saturday: 09:00-22:00

Sundays & Bank/Public Holidays: 10:00-20:00.

Condition 3

The premises must not be open to, nor offer the sale of alcohol to any persons present other than those with pre-booked gin or cocktail experiences, distillery tours or masterclasses between the hours of:

Monday-Saturday: 17:30-22:00

Sundays & Bank/Public Holidays: 16:00-20:00.

The Sub-Committee impose these conditions to promote the prevention of public nuisance.

The Sub-Committee noted the concerns of Mr Curran with regards to the impact on the enjoyment of his residential amenity. Whilst not a condition, the Applicant is expected to be vigilant of his neighbours.

DETERMINATION

The Sub-Committee does grant the application subject to the conditions as detailed above.

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.....S. Sandell.....
Councillor Sam Sandell (on behalf of the Licensing Committee)

Date: 7th August 2020