

BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK

LICENSING COMMITTEE

**Minutes from the Meeting of the Licensing Committee held on Tuesday,
18th February, 2020 at 10.00 am in the Council Chamber - Town Hall,
Saturday Market Place, King's Lynn PE30 5DQ**

PRESENT: Councillors S Sandell (Chair), C Manning and T Parish.

OFFICERS:

Jo Furner – Legal Advisor
Vicki Hopps – Environmental Health Manager
Rebecca Parker – Democratic Services Officer

APPLICANT: Mr Daniel Hill, represented by Mr Tony Grover

RESPONSIBLE AUTHORITIES:

Mark Whitmore – Community Safety and Neighbourhood Nuisance
Chris Brooks – Norfolk Constabulary
Richard Spinks – Norfolk Constabulary
Andy Owens – Norfolk Constabulary

OTHER PERSONS:

Councillor Lesley Bambridge
Barry Brandford

OBSERVING:

Stuart Ashworth – Assistant Director
Nathan Johnson – Public Open Space Manager
John Hussey – Operations Manager

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 VARIATION APPLICATION FOR BAR 100,
NORFOLK STREET, KING'S LYNN.**

The Chair welcomed everyone to the meeting and declared that the Sub-Committee was sitting to consider a variation application for Bar One Hundred, 100 Norfolk Street, King's Lynn. She introduced the Sub-Committee, the Borough Council officers and the Legal Advisor and explained their roles.

The Chair explained that the meeting was being held in public and should any parties have any confidential matters to discuss, they should inform her.

The Applicant, Mr Daniel Hill and his representative Mr Tony Grover introduced themselves.

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

The representative from the Community Safety and Neighbourhood Nuisance Team, Mark Whitmore, introduced himself.

The other persons present, Councillor Lesley Bambridge and Barry Brandford introduced themselves.

Tony Grover requested permission to submit additional evidence to the Sub-Committee on behalf of the Licence Holder, which was a document that had been produced by the Police over the weekend in relation to the Pub Watch scheme. The Chair granted permission and a copies were provided to the Sub-Committee.

The Chair asked all parties if fifteen minutes would be sufficient to present their case. Tony Grover, on behalf of the applicant requested an extension. The Chair granted all parties twenty minutes to present their case.

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

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**

At the request of the Chair, the Environmental Health Manager presented her report to the Sub-Committee. She explained that the applicant had made an application to vary the times of licensable activities at the premises and provided detail of the changes applied for. The Environmental Health Manager informed the Sub-Committee of the following:

- The four Licensing Objectives
- The operating hours applied for
- Mandatory Conditions

- Conditions consistent with the operating schedule
- Notice of the application had been displayed on the premises and in a local newspaper
- Relevant extracts from the Councils Licensing Policy
- Relevant extracts from the Section 182 Guidance

The Sub-Committee was informed that representations had been received from two Responsible Authorities; Norfolk Constabulary and the Borough Council's Community Safety and Neighbourhood Nuisance Team. Copies of their representations had been included in the Agenda.

Two representations had been received from 'other persons'; Councillor Lesley Bambridge and Barry Brandford. Copies of their representations had been included in the Agenda.

The Environmental Health Manager requested that the Sub-Committee had regard to the written material included in the Agenda and the representations put forward at the Hearing and dispose of the matter by using one of the methods outlined in the report. She reminded the Sub-Committee that reasons for their decision must be given as all parties had a right to appeal to the Magistrates Court.

The Chair invited questions to the Environmental Health Manager from all parties. There were no questions.

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THE APPLICANT'S CASE

At the request of the Chairman, Tony Grover, on behalf of Daniel Hill, presented his case.

He explained that the premises was situated in Norfolk Street alongside other premises such as Dr Thirstys and Bar and Beyond. He pointed out that Bar and Beyond was directly opposite Bar One Hundred.

Tony Grover informed the Sub-Committee that the Licence Holder of Bar One Hundred had implemented a maximum capacity of 180 at the venue, although the venue could take up to 230 people. He explained that the Licence Holder would like to extend the opening hours by one hour on Friday and Saturday nights and Bank Holidays. This would be an extension from 3.45am to 4.45am with the premises closed by 5.00am.

The reason for the request was to allow some flexibility and Tony Grover stated that the opening time would only be extended if there was a good atmosphere in the venue and it would not be the norm to do it every weekend.

It was explained that a Temporary Event Notice would not be feasible as this was something that would have to be planned for and the Licence Holder wanted flexibility. Tony Grover explained that the Licence Holder 'ran a tight ship' and Members were aware of the Mandatory Conditions that had been placed on his Licence, which included the necessity for an anti-drug policy, operational CCTV when the premises was open for business, noise management plan and a door staff deployment plan. It was explained that the Licence Holder had more door staff than was required in the plan and he kept all the necessary records for the police.

The Sub-Committee was also referred to the condition relating to only allowing six people outside to smoke after 2.30am. It was explained that the door staff controlled this and in the last two years there had been no intervention from the Police or any other Responsible Authority to challenge the Licence.

Tony Grover explained that the Licence Holder had followed best practice by consulting Norfolk Constabulary and the Borough Council on potential changes to his licence and had met with the Senior Licensing Officer and Chris Brooks from Norfolk Constabulary. Tony Grover stated that at that time they didn't require any changes to conditions and instead they praised the Licence Holder. Subsequently the variation application was submitted. Tony Grover felt that the Police had now had a change of heart since meeting with the Licence Holder.

Tony Grover referred to two letters of support which he had submitted to the Sub-Committee for consideration in advance of the Hearing.

Tony Grover then referred to the letters of objection which had been included in the Agenda. He felt that this was scaremongering and was not based on fact or evidence. He referred to the Police objection and informed those present that he used to be a Police officer and dealt with the night time economy in a supervisory role. He felt that the representations submitted by the Police contained discrepancies and there was a lack of supporting evidence.

Tony Grover stated that the Police representations mainly concerned matters of Police resource and this was not a matter for the Licensing Sub-Committee to consider.

Daniel Hill referred to some of the incidents reported by the Police and he explained that in some cases these had not been followed up by the Police and he only held CCTV records for thirty days so could not go back and check. Tony Grover stated that any incidents attributable to the premises were all dealt with promptly and correctly by door and bar staff.

Daniel Hill stated that Bar and Beyond had a capacity of 500 and a lot of people from there could congregate outside Bar One Hundred, so

not all incidents were perhaps attributable to Bar One Hundred and CCTV would be required for clarification.

Tony Grover referred to the letter of support received from the Taxi Office and stated that this highlighted the positive effect of staggering closing times along Norfolk Street. The Chair asked for clarification from the Legal Advisor as to if the letter of support could be accepted as it was felt that the Taxi Office could benefit financially from the extended hours. The Legal Advisor stated that it could be accepted, but it was up to the Sub-Committee on how much weight they should give to it.

Daniel Hill stated that there was no taxi pickups from outside Bar One Hundred, customers were required to walk to the taxi office.

Tony Grover informed the Sub-Committee that the Licence Holder was prepared to offer a condition regarding the last entry time, should the additional hour be granted. He could restrict entry from 3.15am, which was 45 minutes before a lot of the other venues closed.

Tony Grover concluded that he would like the Sub-Committee to consider the discrepancies in the information provided by the Police and the lack of supporting evidence, the letters of support received and the Section 182 Guidance which stated that decisions should be based on evidence.

The Chair thanked Tony Grover and Daniel Hill for their report and invited questions from all parties.

The Environmental Health Manager referred to the condition offered by the Licence Holder, and asked when, during the evening would the decision would be made to open later and how would this be communicated to staff and customers. Daniel Hill stated that a decision would be made by 3.00am. A sign could then be put up in the window saying that 3.15am would be last entry.

The Environmental Health Manager asked what the Licence Holder would do if there was a big rush of customers at 3.15am. Daniel Hill explained that there was a core customer base and there was not usually an influx of young people at the venue. His patrons were usually thirty plus. Daniel Hill also referred to the extra doormen and the marshal for smokers. Daniel Hill also stated that he was selective on who came into his venue.

Andy Owens from the Police, referred to a variation application made in January 2018 for the premises which removed the last entry time and he asked if this was because of conflict on the door. He understood that there were issues with customers congregating outside when they had been refused entry. Daniel Hill stated that there was no conflict on the door and the previous application to remove the last entry time was

because some staff from other venues came to Bar One Hundred after their shift and he felt it was unfair to refuse them entry.

Andy Owens stated that the reality would be that Bar One Hundred would become a last destination venue and, even if door staff were proactive, there would be additional conflict. Tony Grover stated that the decision as to whether to open later could be made by 3.00am and would only be on rare occasions. The venue would make contact with the Police if this was happening and would also put signs up. He acknowledged that there may be some people taking advantage, but there would not be a large influx of customers.

Daniel Hill stated that a Temporary Event Notice had been applied for by the venue last year, but the Police had objected to this and it had not been granted.

Chris Brooks explained that there would be a risk if the opening time was extended as currently there was a tolerable level of incidents.

Councillor Parish commented that although the Licence Holder stated that opening late would not be a regular occurrence, if the variation application was granted, there would be no control over this and there would be nothing to stop the venue opening for an additional hour every weekend. Daniel Hill explained that he had offered to the Police and the Borough Council to limit the extended openings to 12 a year, but was informed by the Borough Council that this was not something that could be conditioned. Chris Brooks stated that he would not have agreed to 12 openings per year.

Councillor Sandell asked if the venue had a dedicated smoking area and Daniel Hill explained that there was an area at the rear of the premises but this could not be used because of concerns raised previously by the Borough Council's Community Safety and Neighbourhood Nuisance team relating to noise. He explained that he had asked Norfolk County Council Highways for barriers outside the front of the premises, but these had not been forthcoming.

Councillor Sandell asked how the smoking area out of the front was controlled. Daniel Hill explained that door staff and the marshal controlled this and regular customers were aware of the arrangements.

Councillor Sandell asked if regular meetings were held with door staff and Daniel Hill explained that he queried if some of the incidents reported by the Police were attributable to his premises as he had not received reports from his staff, or a follow up from the Police.

Mark Whitmore from the Borough Council's Community Safety and Neighbourhood Nuisance Team presented his case to the Sub-Committee. He explained that the residents of Norfolk Street needed protecting and the additional hour of opening would have a detrimental effect on them. He also made reference to litter, vomit and urine which was left in the surrounding area, antisocial behaviour of people leaving Norfolk Street in the early hours and the impact this could have on residents who were trying to sleep. The additional hour would also mean that there would still be people out on Norfolk Street into the very early hours and this would have an impact on street cleaning operations which commenced at 6.00am.

The Chair invited questions from all parties.

Daniel Hill referred to the letter of support received from the taxi office and explained that the majority of his customers got taxis home, and the staggered closing times would have a positive impact on the amount of people waiting around Norfolk Street.

Tony Grover asked if Mark Whitmore's case was based on detailed studies on when and where problems occurred. Mark Whitmore stated that he was unaware of any specific studies but had experience of the night time economy in the town centre.

Tony Grover asked if there was a way to clarify the source of litter, vomit and urine on the way out of town. Mark Whitmore explained that the Borough Council's Waste and Recycling Manager who was present at the Hearing may be able to provide clarification on this, but it was generally accepted that this came from the night time economy. Mark Whitmore explained that it was not unreasonable to suggest that the additional hour applied for would cause disturbance to residents and street cleaning operations.

Tony Grover asked if the Community Safety and Neighbourhood Nuisance Team had received any concerns from residents of Norfolk Street regarding this application. Mark Whitmore explained that none had been received directly, but it was the role of his team to consider the impact that this application could have on residents, even if they may not have considered the implications themselves.

Tony Grover asked if the Community Safety and Neighbourhood Nuisance Team had received any complaints in the past relating to Bar One Hundred. Mark Whitmore explained that the last discussion the team had had with the venue was following complaints regarding the use of the rear smoking area.

Barry Brandford asked Mark Whitmore if he would consider the areas in the town centre to be affected by litter, vomit and urine to include Norfolk Street, Albert Street, the surrounding car parks, Vancouver Quarter, the shopping area and White Lion Yard. Mark Whitmore

agreed that all of these surrounding areas were impacted by the night time economy.

9 **RESPONSIBLE AUTHORITIES CASE - NORFOLK POLICE**

Chris Brooks referred to the representations made by the Police, which had been included in the Agenda. He stated that these were accurate.

He stated that there were incidents occurring at the premises, but at present these were at a tolerable level. He referred to the list of incidents which had been included in the Agenda.

The Chair invited questions from all parties.

Daniel Hill referred to an incident which took place at the weekend and the Police explained that this was an ongoing investigation, so could not be discussed.

The Environmental Health Manager asked the Police how often they visited Bar One Hundred. Chris Brooks stated that no formal interventions had been required recently as there was a tolerable level of disorder, however there was a Police presence on Norfolk Street on Friday and Saturday nights. He explained that he had not visited the premises since the meeting with the Senior Licensing Officer which Daniel Hill had referred to earlier in the Hearing.

The Environmental Health Manager asked if the Police looked at the incident book when they visited the premises. Chris Brooks stated that he could look at the book if required. He explained that Daniel Hill was a proactive member of Pub Watch, which was where Licence Holders shared information and intelligence and received a report from the Police.

Chris Brooks explained that the Police also visited the venue when it was open and if there were any problems they would be reported to him.

10 **OTHER PERSONS CASE - BARRY BRANDFORD - WASTE AND RECYCLING MANAGER, BOROUGH COUNCIL**

Barry Brandford presented his case and explained that the Borough Council had to deal with the 'aftermath' of the night time economy at Norfolk Street. This included litter, food waste, vomit and urine all around the surrounding area.

He stated that the Borough Council started street cleaning operations at 6.00am and if the opening time of Bar One Hundred was extended, then the street cleaning team were more likely to come into contact with individuals who were intoxicated. He explained that this could increase the risk of assault on staff.

He also explained that the Council used heavy plant for street cleaning operations and this could present a danger to people who were intoxicated and therefore less aware of risks. Following extended opening times on Bank Holidays, there could also be waste collections and trade waste collections along Norfolk Street, which also started very early in the morning.

Barry Brandford referred to incidents in other parts of the country where there had been fatalities as a result of people sleeping in bins which had then been collected.

In conclusion he stated that he was concerned that extending the opening hours would result in intoxicated persons coming into contact with the street cleaners and heavy plant, which could pose a risk to the street cleaners and the intoxicated individuals.

The Chair invited questions from all parties.

Daniel Hill referred to his response to these concerns which he had submitted in advance of the Hearing.

Tony Grover asked if the street cleaning operations always started at 6.00am and Barry Brandford confirmed that they did. Daniel Hill queried this as he commented that on his CCTV system the earliest he had seen street cleaning taking place along Norfolk Street was 7.13am. Tony Grover asked if checks were carried out to ensure that staff were there at that time and it was explained that a team leader would be on duty.

Tony Grover referred to the concern raised regarding people sleeping in bins. He asked if the Council checked to ensure that bins were locked. Barry Brandford explained that checks were carried out to ensure that bins were lockable, but they could easily be compromised.

Daniel Hill asked Barry Brandford if he was aware of anyone sleeping in bins in this area within the last three years and Barry Brandford explained that there had been incidents. Daniel Hill queried this as he knew someone who worked for the waste collection service who was unaware of any incidents.

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OTHER PERSONS CASE - COUNCILLOR LESLEY BAMBRIDGE

Councillor Lesley Bambridge informed those present that she was Ward Member for the town centre and also participated in the St Margaret's and St Nicholas Forum. She explained that she was objecting to the application on behalf of local residents. She acknowledged that you couldn't always determine which venue incidents were coming from, but antisocial behaviour resulting from the night time economy was excessive and as a result did not make the

town centre an attractive place. She was concerned about the reputation of the town centre and stated that Norfolk Street was a 'no go' area for some people. She also received lots of complaints from residents about the night time economy.

Councillor Bambridge explained that antisocial behaviour was not restricted to Norfolk Street, although this was the main area of the town centre for the night time economy, it had a knock on effect on surrounding areas when people left to go home. Councillor Bambridge referred to future opportunities for the town centre, such as the benefits of the Heritage Action Zone and she did not want this to be put at risk because of antisocial behaviour as a result of the night time economy.

The Chair invited questions from all parties.

Daniel Hill asked if the complaints that Councillor Bambridge had received related to young people and Councillor Bambridge explained that the age group was not often specified.

12 **SUMMING UP - LICENSING OFFICER**

The Environmental Health Manager summed up her case. She reminded the Sub-Committee that this was a variation application and that the Sub-Committee needed to consider this case on its own merits and impartially. She explained that they should focus on the impact of those living and working in the area and balance this against the four licensing objectives as well as considering the positive impact staggered closing times could sometimes have.

The Environmental Health Manager requested that the Sub-Committee consider all the information put forward at the hearing and determine the application by using one of the methods as set out in her report. She reminded the Panel that full reasons for their decision must be given as there was provision for all parties to appeal to the magistrates against the decision.

13 **SUMMING UP - POLICE**

Andy Owens stated that the Police objected to this application and by making this venue a 'last destination venue' it would greatly alter the dynamics of the current venue and its customer base. He stated that there would be confrontation on the door and this would increase the amount of incidents requiring Police intervention and undermine the four Licensing Objectives.

He referred to the previous application to remove the last entry time and he stated that this had had a positive impact, however the Licence Holder had indicated that he would like to reinstate a last entry time should he be granted the additional hour.

He explained that incidents were currently at a tolerable level and required little formal intervention from the police, but the additional hour would alter the dynamics and increase levels of intoxication and incidents.

Andy Owens stated that altering the dynamics of Bar One Hundred would affect Norfolk Street as a whole and would increase conflict on the door, especially if this was a last destination venue and there were more people being refused entry.

14 **SUMMING UP - COMMUNITY SAFETY AND NEIGHBOURHOOD NUISANCE**

Mark Whitmore summed up his case. He explained that his primary concern was the impact that the additional hour would have on the current and future residents of Norfolk Street and surrounding areas.

15 **SUMMING UP - BARRY BRANDFORD - WASTE AND RECYCLING MANAGER**

Barry Brandford summed up his case. He explained that the Borough Council had a duty to protect its employees and he objected to the application under the prevention of crime and disorder and the public safety licensing objectives.

16 **SUMMING UP - COUNCILLOR LESLEY BAMBRIDGE**

Councillor Lesley Bambridge stated that she had nothing further to add.

17 **SUMMING UP - APPLICANT**

Tony Grover stated that the concerns raised at the Hearing could be attributable to any premises along Norfolk Street. He also referred to the lack of formal interventions required by the police. He explained that the evidence provided by the police was insufficient and there were discrepancies in their reports.

He stated that Bar One Hundred was well run and the additional hour opening would only be used on an occasional basis, with signs being put up and the Police being notified. He reiterated that Police resource was not a matter for this Sub-Committee to consider.

Tony Grover referred to the letters of support which had been submitted to the Sub-Committee in advance of the Hearing.

Tony Grover asked the Sub-Committee to grant the application and give the Licence Holder the opportunity to prove that he could continue to operate a well-run bar. He reminded the Sub-Committee that there

was the opportunity for individuals to call the licence in for review in the future if required.

18 **OUTSTANDING MATTERS**

The Legal Advisor stated that there were no outstanding matters.

19 **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.

20 **DECISION**

The Decision of the Sub-Committee was read out as follows:

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 are not questioning Applicant's management of the Premises and cooperation with other agencies. The Applicant went to lengths to challenge the accuracy of some of the police reports of crime and disorder, highlighting that some of the incidents did not involve patrons of his establishment and that were incidents have arisen the cooperation that has been offered with the other agencies involved. The Sub-Committee do not dispute this and commend him. However, the Sub-Committee must consider the bigger picture. And whilst it is accepted that not all of the disorder occurring on Norfolk Street arises from the Premises, the point the police are trying to make is that some disorder is inevitable, and extending that window for disorder adversely undermines the crime and disorder objective. The police are considered to be the experts when it comes to the Crime and Disorder Objective, and whilst it is accepted that there cannot be evidence of what will occur, the police are in the best position to consider what might reasonably occur based on their experiences generally, and of the knowledge and interventions in this particular area. It is their considered opinion that later licensing and closing times will lead to a longer period of disorder, must be given great weight.

The Sub-Committee do not dispute that currently the Applicant is selective as to whom is permitted entry to the Premises, and that his cliental are not the 18-25 age range, but 30 plus, but it is not unreasonable to assume, as the Police suggest, that there may be a change in dynamics of the Premises as a result of later operating hours. The Sub-Committee take note that the Applicant is not

proposing to operate the extended hours on a regular basis, but wants it for the flexibility to be able to keep the Premises open longer where they are having a busy night for example. If the Sub-Committee were to grant the licence as applied for, there is little to prevent this becoming the norm at a later date.

The Sub-Committee share concerns about how adhoc extensions can be managed to prevent an influx of party goers, and to ensure that additional policing etc., can be managed where there is an unplanned extended opening. The Sub-Committee are grateful to the Applicant for suggesting that he would be prepared to have a condition which restricted last entry to 3:15, that being 45 minutes prior to the other venues closing, and also suggest that he would accept a condition restricting the number of occasions where an extension in licensable activities might take place. However, they share the concerns as to how this might be policed and managed in such a way that would give other agencies sufficient opportunity to provide support, but also prevent an influx of party goers who may gravitate to the Premises in anticipation of a later opening.

The Council's Community Safety and Neighbourhood Nuisance team, who can be considered experts in dealing with nuisance, also contend that the extended opening time will lead to increased periods of nuisance, including littering, street fowling, traffic and public nuisance, not only in Norfolk Street itself but in other areas beyond. The Council's Open Spaces and Waste Management teams confirmed having to clear up litter, vomit, urine from Norfolk Street and surrounding areas arising from the night time economy. The Panel note that there have been no objections by members of the public either of noise nuisance presently or concerns that they may arise further, but Councillor Lesley Bambridge talks as to how she has listened to concerns generally about the night time economy and its effects on other residents. It is reasonable that any existing nuisance caused would continue later if later opening hours were available.

In terms of public safety, the Sub-Committee are persuaded by the argument that a later closing time could impact on the public safety of the employees of the Council, specifically street cleaners, who might be confronted by persons who are intoxicated.

The Sub-Committee are mindful of the letter of support received from Connect Cars (K.L) that spreading the closing times on Norfolk Street would significantly decrease customer waiting times and the numbers of persons congregating as a result, and the Statutory Guidance does support variable licensing hours to facilitate a more gradual dispersal of customers, however, this isn't something currently undertaken in this area.

Accordingly, for the reasons stated above the application is refused.

The meeting closed at 2.00 pm