

LICENSING SUB-COMMITTEE

DETERMINATION NOTICE

Date of Hearing	13th June 2024
Sub-Committee Members	Councillors Bartrum (Chair), Bhondi and Parish
Legal Adviser	James Arrandale
Licensing Officer	Marie Malt – Senior Licensing Officer
Democratic Services Officer	Rebecca Parker
Applicant’s Name	Garden Paradise Limited Represented by Ricardo Ferreira and Zulfikar Bektas
Interested Parties	Arlindo Freitas Mrs A Carnell – representing self and residents of Bridge Street Mrs L Howe – representing self and Mr D Weedon Heval Sevhat
Responsible Authorities	Craig Pease – Senior Licensing Enforcement Officer, Borough Council of King’s Lynn & West Norfolk
Premises Address	The Paradise Shisha Bar, 15-19 Tower Street, King’s Lynn
Application	Application for a new premises licence.

APPLICATION

Kings Lynn and West Norfolk Borough Council, being the relevant licensing authority, received an application for a Premises Licence for The Paradise Shisha Bar, 15-19 Tower Street, King’s Lynn, Norfolk.

During the 28 day representation period, the Council received ten letters of representation from other persons to consider. There is also one representation to consider from the Responsible Authority for the Licensing Authority.

HEARING

On 13th June 2024, a hearing was held to consider the application for 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 Responsible Authority
- The Applicant

- Interested Parties

SUMMARY OF EVIDENCE

Licensing Officer

The Licensing Officer presented her report and outlined the application which had been submitted and responded to questions from all parties. A copy of the application was attached to the report. The Licensing Officer drew particular attention to:

- The layout of the premises and the current proposed hours of the licence;
- The mandatory conditions (para. 3 of the report);
- The proposed conditions (para. 4);
- Conditions agreed with the Council's CSNN team (para. 5). The Officer noted that Shisha is not a licensable activity therefore could take place outdoors after 10pm;
- Conditions agreed with Norfolk Constabulary (para. 6). It was noted that the licence holder would need to risk-assess whether additional staff were necessary at any times;
- The existence of a premises licence for the same address in the name of "Lynn Smokehouse", that licence authorises the same activities, but with different timings and additional conditions (pages 76-82 of the Agenda Pack).
- The Sub-Committee's powers either to grant the application under the current proposed terms, or to grant the application with conditions that it considers reasonable, or to reject the application.

There were no questions to the Licensing Officer.

Applicants

The Applicants presented their case and responded to questions from all parties. The Applicant stated that it wished to provide a venue which would not involve drugs or excessive drinking. The Applicant noted that there is currently no door security on any other premises on Tower Street, such that this would improve security. Currently the applicant allows customers to bring their own alcohol, which they control. The applicant stated that this application is intended to duplicate and replace the Lynn Smokehouse licence. The applicant stated that it had attempted to comply with requests from the Council regarding its operations.

The Licensing Officer asked the applicant to explain what efforts they had made to comply with requests from the Council. The applicant restated steps it said it had taken. The Licensing Officer asked Mr Bektas whether it might wish to move to Norfolk Street. Mr Bektas stated that if a licence for indoor music is not granted, he could not operate on Tower Street.

The Licensing Officer referred to a conversation with a prior representative about music. The Officer was told that they were testing the equipment, but it transpired that a party was taking place. Mr Bektas said that the party was private and the attendees were family and friends. The party had been advertised but was cancelled and a private party was held instead.

The Responsible Authority asked about the Russian night on 4 May. The Responsible Authority also asked about a Russian Party on 11 May, and the discussions with the Applicant on other

activities as set out in his report. Mr Bektas made submissions to explain these incidents. Mr Ferreira said that there was only party, on 4 May, and that the other complaints related to music. Mr Ferreira said that he had asked the Council for what the acceptable volume level of music would be.

The Responsible Authority stated that the Applicants had said the 4 May was a speaker test, the 11th was a private party, and on the 17th there was excessive music. The Responsible Authority noted, and the Applicants accepted, that the account in this hearing was different from what had been explained previously to Mr Pease.

Mrs Carnell asked the Applicants if they hold a DBS certificate. Mr Ferreira clarified that the licence was not intended to allow persons under 18 to attend the venue.

CLlr Parish asked what numbers the Applicants expected, with a view to ventilation if windows are closed. Mr Ferreira stated that during the week they would have 10-20 people (not all simultaneously). On the weekend, this would be 10-80 (not all simultaneously), and that they had an air conditioning system.

Responsible Authority

Mr Pease presented the Responsible Authority's (the Council's) case. A first event was advertised on social media. The applicant's agent informed the Council on 11 May that the noise was due to a speaker test. On 11 May, the Council's CSNN team observed loud music (deemed at an intrusive level likely to be a statutory nuisance). The Applicant apologised in writing on 17 May. That evening, the CSNN again observed loud music (deemed at an intrusive level likely to be a statutory nuisance). CSNN officers attended and the music was turned down. The Responsible Authority duly does not have confidence that licence conditions would be followed.

Mr Sevhat asked the Responsible Authority refers to the presence of a 10-year-old child at the premises. Mr Pease explained that this was Mr Ferreira's son waiting to be taken home.

The Panel had no questions for the Responsible Authority.

Mr Sevhat

Mr Sevhat presented his case. He referred to the boundary within the premises. He questioned the availability of a fire exit as this may not be within the control of the Applicant, and fire risks of the premises (configuration of gas pipework, presence of wooden materials). He noted that he is the building owner, but claims he is unable to dispose of his interest in the premises. He submitted that the building is not suitable for the proposed uses. He questioned that works were done without insurance, and whether electrical works that have been done were done without proper certification. He alleged that the Applicant had threatened not to abide by the law.

The Licensing Officer asked to confirm if Mr Sevhat's concerns relate to public safety. Mr Sevhat agreed, stating that he was concerned about risk to the physical premises.

The Licensing Officer asked Mr Sevhat if he had reported to the Police his allegations of blackmail/intimidation. Mr Sevhat said that he had, but he did not have a crime number.

There were no questions from the Responsible Authority.

The Applicant asked Mr Sevhat to confirm that he had been asked if he would allow alcohol service. Mr Sevhat stated that he was advised by his solicitor not to permit this.

The Applicant asked whether Mr Sevhat had removed Mr Bektas as director without permission. Mr Sevhat stated that these matters were dealt with jointly in front of the accountant.

Cllr Parish asked Mr Sevhat to clarify the existing licence, and his intention to open a family restaurant. Mr Sevhat confirmed this.

Cllr Parish asked about the covering of the garden area, and who was responsible for this. Mr Sevhat stated that this was work done by Mr Ferreira, for which he invoiced Mr Sevhat £25,000.

Cllr Bondhi asked Mr Sevhat to clarify what he meant about the appropriateness of the upstairs for music. Mr Sevhat confirmed that there was no sound-proofing in the building.

Mr Freitas

Mr Freitas submitted that there was no need for an additional licence, and that he would be affected by additional music. He did not have submissions to add to his written submissions (page 51 of the Agenda pack).

Cllr Bondhi asked Mr Freitas to elaborate on his concerns. Mr Freitas stated that he was unable to sleep until 1am or 2am on some nights due to the activities at the venue.

Mrs Howe

Mrs Howe read out submissions from Mr Weedon, complaining about historic activities on the site. Mr Weedon is concerned about anti-social behaviour and noise. Mr Weedon suggested that building modifications (additional glazing and soundproofing) would be required. Mr Weedon also complained that the applicants had acted illegally on 4 May 2024.

Mrs Howe submitted that she did not believe the applicants would comply with conditions.

She drew attention to the applicants' intention to screen sports events, which would risk follow-on anti-social behaviour. Ms Malt clarified that broadcasting live sport is not a licensable activity.

Mrs Howe stated that she had raised concerns regarding her own insurance as affected by the presence of the outdoor structure.

The Applicant asked Mrs Howe about her intentions to obtain a licence until 1am. Mrs Howe stated that she only wanted to serve midday drinks with food, and whether it was her intention to make the 1am licence available to future parties acquiring the benefit of the licence. She obtained the longer licence terms simply because the least she could do until 11pm.

Cllr Parish asked Mrs Howe whether she considered the application if granted would affect her quality of life. Mrs Howe said it would be affected extremely negatively.

Cllr Bondhi asked about her experience. She stated that she experienced very loud music, and that the majority of the clientele congregate in the rear garden.

Ms Malt clarified that shisha is not a licensable activity, so the garden area could be used for this at any time of day.

Mrs Carnell

Mrs Carnell stated she was speaking on behalf of a shop owner and local residents. She stated that the grant of the licence would negatively affect local businesses. The Council had previously taken action to limit disorderly conduct on Tower Street in the interests of residents.

Mrs Carnell submitted that bars should be focussed in Norfolk Street, and the conservation area around Tower Street should be preserved.

Cllr Parish asked Mrs Carnell about police presence on Tower Street. Mrs Carnell stated that the Police had informed her that they would have limited capacity to assist.

Summing Up

The parties summed up.

Ms Malt reminded the panel that CSNN could not impose any conditions on the shisha use, as this is not licensable activity.

Ms Malt drew attention to conditions 11, 13 and 14 imposed on the existing licence (page 79 of the agenda pack).

Mr Pease for the Responsible Authority drew attention to the previous non-compliance.

The Applicant noted that Norfolk Street was already at capacity, and that there were already bars in the vicinity of this premises. Regarding safety, the Applicant reminded the panel of the conditions it had accepted from the Police regarding security.

Mr Sevhat summed up his submissions. Mrs Carnell, Mrs How and Mr Freitas did not sum up.

FINDINGS AND DETERMINATION

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

The Sub-Committee took particular account of the evidence presented by the Responsible Authority and the residents regarding recent incidents of noise nuisance arising from the premises – that these had been repeat incidents, that they had occurred while the applicants did not hold a licence, and that the explanations given for them by the applicants had differed over time. The Sub-Committee considered that they could not have confidence that licence conditions, including conditions to control noise nuisance, would be complied with.

The Sub Committee therefore determined to reject the application.

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.....
Councillor Micaela Bartrum (Chair of the Licensing Committee)

Date: 13th June 2024