

BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK

**Minutes of the Licensing Sub Committee Meeting
held on Monday 24th February 2014 at 10am
in the Council Chamber, Town Hall, The Green, Hunstanton**

PRESENT:

Sub-Committee Members:	Councillor C Crofts (Chairman) Councillor C Manning Councillor C Sampson
Borough Council Officers:	Rachael Edwards - Senior Democratic Services Officer John Gilbraith - Licensing Manager
Legal Advisor:	Cara Jordan
Premises:	The Spinney, St Edmunds Terrace, Hunstanton
Applicant:	Borough Council of King's Lynn & West Norfolk
Representing the Applicant:	Martin Chisholm, Business Manager
Other Persons:	Mr Fleming, Legge's, Hunstanton

In attendance:

On behalf of the Applicant:

David Morton, Resort Operations Manager,
Borough Council of King's Lynn & West Norfolk

Responsible Authorities:

Tony Grover, Licensing Officer,
Norfolk Constabulary

1. WELCOME AND APOLOGIES

The Chairman welcomed everyone to the meeting and declared that the meeting had been convened as the Licensing Authority for the Borough Council of King's Lynn & West Norfolk under the Licensing Act 2003. The business was to consider a grant of a premises application in respect of The Spinney, St Edmund's Terrace, Hunstanton.

There were no apologies for absence.

2. ITEMS OF URGENT BUSINESS

There were none.

3. DECLARATION OF INTERESTS

The Chairman stated that the Sub-Committee were all Elected Members of the Borough Council and requested that the Legal Advisor outline any advice that she deemed to be appropriate.

The Legal Advisor explained that Members did not have a pecuniary interest and it was the nature of the licensing regime that any applications made by the Borough Council would be considered by a Licensing Sub-Committee made up of Elected Members. She advised the Sub-Committee that the application should be considered in the same manner as any such other application.

4. TO CONSIDER THE APPLICATION FOR GRANT OF A PREMISES LICENCE IN RESPECT OF THE SPINNEY, ST EDMUNDS TERRACE, HUNSTANTON, PE36 5EH

The Chairman introduced the Sub-Committee Members and the Borough Council officers and explained their roles. He also introduced the Legal Advisor and explained her role. The representative on behalf of the Borough Council introduced himself as did the other person present. The Chairman explained that Mr Grover, the Licensing Officer from Norfolk Constabulary was attending the hearing and would be available to offer any advice or answer any questions but would not take part formally in the proceedings.

5. SITE VISIT

The Chairman explained that the Sub-Committee Members had read all the documentation and advised that at any time during the hearing, the Legal Advisor or the Licensing Manager may be asked or may offer advice to the Sub-Committee or any other parties.

The Chairman proposed that the Sub-Committee carry out a Site Visit. He explained that all parties were welcome to accompany the Sub-Committee but that they should only answer any questions that were directly raised by Members of the Sub-Committee. He therefore adjourned the hearing for a site visit to take place (10.05am).

6. THE PROCEDURE

On reconvening the hearing (10.23am), at the request of the Chairman, the Legal Advisor outlined the procedure that would be followed at the hearing.

7. THE APPLICATION

The Licensing Manager presented his report and explained that a premises licence was required under the Licensing Act 2003 (the 'Act')

for the sale of alcohol by retail, regulated entertainment or for the provision of late night refreshment (i.e. the supply of hot food and drink between 11pm and 5am). The four licensing objectives to be considered when determining the application, and relevant representations, were:

- the prevention of crime & disorder,
- public safety,
- the prevention of public nuisance, and
- the protection of children from harm.

Mr Chris Bamfield had made an application under Section 17 of the Act on behalf of the Borough Council of King's Lynn & West Norfolk for the licensable activity of 'regulated entertainment. A copy of the application had been attached at Appendix 1 and if granted would allow the premises to operate as follows:

<u>Licensable Activity</u>	<u>Days</u>	<u>Times</u>
Regulated Entertainment (outdoors only): 'Plays', 'Films', 'Live Music', 'Recorded Music', 'Performance of Dance' and entertainment of a similar description to 'live music', 'recorded music', or 'performance of dance'.	Monday to Sunday:	10am – 11pm

Mandatory Conditions

The premises licence, if granted would be subject to the following mandatory condition:

- The admission of children to film exhibitions is to be restricted in accordance with the recommendations of the British Board of Film Classification (BBFC) or the Borough Council of King's Lynn & West Norfolk.

Conditions Consistent with the Operating Schedule

The Spinney would be subject, if granted to the following condition which was consistent with the operating schedule (the application):

- (a) A risk assessment for each event or performance shall be prepared prior to the commencement of each event. This risk assessment must be made available upon request for examination by representatives of the Licensing Authority, the Police or the Public Safety Advisory Group.

Representation from Responsible Authorities

Section 13(4) of the Act defined the 'responsible authorities' as the statutory bodies that must be sent copies of an application. Representations made must relate to the licensing objectives.

Norfolk Constabulary had originally objected to the application on the grounds that the 'public safety' licensing objective could be undermined. A copy of their initial letter of objection dated 30th December 2013 had been attached to the report at Appendix 2. However, the Licensing Manager advised that following discussions, the Police had formally withdrawn their objection to the application on the basis that the following condition would be placed on the Premises Licence if granted and form part of the operating schedule:

"The Licence Holder will ensure that, during the period of any entertainment authorised within the licensed area, properly authorised officers of the Borough Council for King's Lynn & West Norfolk monitor the licensed area and be available to respond to and deal with any of the risks that are identified in the generic risk assessment applicable to the licensed area, or any other incident that may present itself at the time".

The Licensing Manager explained that Mr Grover, Licensing Officer from Norfolk Constabulary was in attendance and would be available to answer any questions or provide further information if required.

There were no representations from any of the other 'responsible authorities' to consider namely:

- Norfolk Fire Service
- Norfolk Trading Standards
- Norfolk Children's Safeguarding Board
- Norfolk Health Authority
- Planning
- Environmental Health and Community Safety (Environmental Protection Team)
- Environmental Health (Health & Safety)
- Borough Council of King's Lynn & West Norfolk as the Licensing Authority

Representations from 'Other Persons'

As well as responsible authorities, any other person could play a role in a number of licensing processes under the Act. This included any individual, body or businesses that were entitled to make representations to applications. Representations made must relate to the licensing objectives.

There had been one representation from 'other persons' to consider. A copy of the letter had been attached to the report at Appendix 3.

Notices

The applicant was responsible for advertising the application by way of a notice in the specified form at the premises for not less than 28

consecutive days and in a local newspaper. The Public Notice appeared in the Lynn News on Friday 6th December 2013 and should have been displayed on the premises until 31st December 2013.

Plans

A plan of the premises had been attached at Appendix 4 (not 5 as stipulated in the Agenda) and a location plan attached at Appendix 5 (not 6 as stipulated in the Agenda).

Borough Council of King's Lynn & West Norfolk's Licensing Policy

The Licensing Manager reminded the Sub-Committee that the current Statement of Licensing Policy had been approved by Full Council on the 25th November 2010 and highlighted the following extracts which may be relevant to the application:

3.0 Fundamental principles

3.1 The 2003 Act required that the Council carried out its various licensing functions so as to promote the following four licensing objectives:

- (a) the prevention of crime and disorder,
- (b) public safety,
- (c) the prevention of public nuisance, and
- (d) the protection of children from harm.

3.2 Nothing in the 'Statement of Policy' would

- (a) undermine the right of any individual to apply and to have any such application considered on its own merits;
- (b) override the right of any person to make representations.

3.3 Every application would be dealt with impartially and on its individual merits.

3.4 Licensing is about regulating licensable activities on licensed premises and any conditions that were attached to premises licences would be focused on matters which were within the control of the individual licensee i.e. the premises and its vicinity.

13.0 Cultural Activities

13.1 All reasonable care will be taken to ensure that only necessary, proportionate and reasonable licensing conditions impose any restrictions on such events.

13.2 The Borough Council recognises the need to encourage and promote a broad range of entertainment for the wider cultural benefit of communities. In determining what conditions should be attached to the licence the Borough Council is aware of the need

to avoid measures which deter entertainment by imposing indirect costs of a disproportionate nature.

18.0 Conditions

18.1 The Borough Council will not impose conditions unless it has received a representation. Any conditions will be proportional and necessary to achieve the Licensing Objectives.

Guidance Issued Under Section 182 of the Licensing Act 2003

The Licensing Manager also referred to Section 4 of the Licensing Act 2003, which stipulated that Licensing Authorities must have regard to Guidance issued under Section 182. The current guidance was issued by the Home Office in June 2013 and offered advice to Licensing authorities on the discharge of their functions under the Act. The Licensing Manager referred Members to the relevant sections of the guidance which may be relevant to the application:

Licence Conditions – General Principles

1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will”, is encouraged. Licence conditions:

- must be appropriate for the promotion of the licensing objectives;
- must be precise and enforceable;
- should not duplicate other statutory;
- must be tailored to the individual type, location and characteristics of the premises and events concerned;

Each application on its own merits

1.17 Each application must be considered on its own merits and in accordance with the licensing authority’s Statement of Licensing Policy.

Public safety

2.8 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the premises. Physical safety includes the prevention of accidents and injuries and other immediate harms.

Safe capacities

2.13 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence.

- 2.17 Public safety includes the safety of performers appearing at any premises.

Other Persons

- 8.12 As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications. Any representations made by these persons must be 'relevant', in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious.

Where no Representations are Made

- 9.2 A hearing is not required where an application has been properly made and no responsible authority or other person has made a relevant representation.

Where Representations Are Made

- 9.3 Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant,) the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious.

Relevant, vexatious and frivolous representations

- 9.4 A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.
- 9.5 It is for the licensing authority to determine whether a representation is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous.
- 9.6 Frivolous representations would be essentially categorised by a lack of seriousness

Representations from the Police

- 9.12 In their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regards to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for

the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

Hearings

- 9.33 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective that have given rise to the specific representation and avoid straying into undisputed areas.
- 9.34 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
- the steps that are appropriate to promote the licensing objectives;
 - the Section 182 Guidance;
 - the Council's Statement of Licensing Policy.
- 9.35 After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives.
- 9.36 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives.

Determining Actions that are Appropriate for the Promotion of the Licensing Objectives

- 9.38 Determinations should be considered on a case by case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 9.40 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end.

Spontaneous music, singing and dancing

15.45 The spontaneous performance of music, singing or dancing does not amount to the provision of regulated entertainment and is not a licensable activity because the premises at which these spontaneous activities occur would not have been made available to those taking part for that purpose.

There were no questions from Mr Chisholm, Mr Fleming or Members of the Sub-Committee for the Licensing Manager.

8. APPLICANT'S CASE/QUESTIONS

Mr Chisholm, on behalf of the applicant presented his case and provided the Sub-Committee Members with some background on the application. He explained that The Spinney was an area of public open space situated between the southern end of High Street and the Hunstanton Bus Station area situated off St Edmunds Terrace. As part of an urban regeneration project, the area had been sympathetically developed to include shared surface pedestrianised areas, reduced vehicular access and to provide a hard standing area that was off the highway area commonly known as the performance area. The area was situated adjacent to the High Street and was of approximately 9.5m in diameter. It was the intention that this area would be used to host activities such as Christmas carols, craft fairs, localised musical performances and such like activities which were common in town centres. The Borough Council had chosen to licence the area as it believed that activities that could take place were likely to fall within the range of licensable regulated activities.

Mr Chisholm explained that the northern side of The Spinney was part of the Highway and was outside the area that would be licensed. He explained that The Spinney had only been fully completed in the last ten days and therefore Stage 3 of the Safety Audit had yet to be completed. This was a function of Norfolk County Council's Highways Department and would be completed irrespective of the decision of the Licensing Sub-Committee.

Mr Chisholm explained that the day to day operational management would be through the Borough Council's Resort Services section and under the direction of the Resort Operations Manager. Booking arrangements would follow a similar format to those already established for the operation of the upper and lower Green. The Borough Council would require any person or organisation wishing to undertake an activity on the area to complete the following:

- Booking application form;
- Provide suitable insurance;
- Undertake a risk assessment proportionate to the nature of the activity being undertaken;
- Where it was believed that an event was likely to attract a crowd of sufficient size and nature as to necessitate a road closure or a likelihood that the activities would spill over onto the adjacent highway, the event organiser would be required to submit an Event Safety Plan to both the Resort Services Section and enter it for comment by the Local Authority Safety Advisory Group.

Mr Chisholm explained that the Local Authority Safety Advisory Group consisted of representatives from the Borough Council's Emergency Planning Team, the Police and the Fire Service. The Borough Council also had considerable amount of experience in arranging a variety of

different events and had a number of staff that had qualified as Event Safety Managers. Any risk assessments undertaken would be proportionate to the size and type of event that was planned.

Mr Chisholm also explained that in accordance with the requirements of the Norfolk County Council Highways Department, a Section 16A Road Closure Notice would be considered where the nature of the event was such that it was likely to include inadvertently or otherwise, the adjacent highway. He highlighted that it was not possible to obtain a Road Closure (16A) where there was no probability that the event or its audience would likely infringe upon the highway area.

Mr Chisholm reported that further to the guidance and suggestions of the Norfolk Constabulary Event Planning Unit, a number of sockets had been installed around the open section of the performance area which would allow this to be effectively “fenced” when performances took place which would require those participating not to venture between the two areas and to provide a clear demarcation between these. He explained that as with all activities and events undertaken within the Resort, the Council would undertake a review proportionate to the event and to aid this, real time monitoring of the area would take place with an additional CCTV camera having been installed at the southern end of the High Street overlooking the performance area and adjacent highway. The CCTV operators were experienced in reviewing footage and spotting any potential issues that may be of concern and that may require an appropriate response to be made.

In relation to the points raised by Mr Fleming in terms of public safety, Mr Chisholm explained that Road Traffic Regulations stipulated that it was an offence for vehicles to use the paved area except for access. Parking enforcement would also be in operation as there was only one restricted loading bay. The issue would be reviewed as part of the Stage 3 Safety Audit to be carried out by the Highways Department. If any action was to be taken to prohibit vehicles from using the access area, this was beyond the extent of the powers of the Borough Council but within the remit of Norfolk County Council Highways Department.

In conclusion, Mr Chisholm stated that the Borough Council had received an application for tables and chairs to be placed on the paved access road (highway).

The Licensing Manager questioned how many people were envisaged to attend the larger events and what was the maximum number of people he envisaged that the licensed area could accommodate. In response, Mr Chisholm explained based on advice from the Health & Safety Executive, two people could be accommodated per square metre which would mean the area could potentially accommodate a maximum number of 500/600 people. He explained that it was difficult to predict how many people the larger events would attract, but he envisaged there would be more interest from a passing audience as opposed to a static

audience. He also explained that he envisaged that most events would be on the smaller scale.

In response to a question raised by Mr Fleming as to why the original design had been amended, Mr Chisholm stated that he was not in a position to answer the question. Mr Fleming also questioned the reasoning behind allowing vehicular access outside his business. Mr Chisholm explained that it was to allow vehicles access from the southern to the northern area but would not allow vehicles to turn round.

Mr Fleming stated that he had not made any application to site tables and chairs on the highway area.

Councillor Sampson acknowledged the concerns with regard to road safety and vehicular access along the paved area and questioned whether, if the licence was granted, a condition could be imposed on the licence to restrict the use of the "road". Mr Chisholm stated that the use of the road would be monitored to ascertain how many vehicles were using it; it was not a particularly desirable or quick route. He also explained that it was a criminal offence to obstruct the highway and reiterated that if the nature of the event was likely to include inadvertently or otherwise the adjacent highway, a Section 16A Road Closure Notice would be considered. Mr Chisholm did highlight that these could take some weeks to process.

The Legal Advisor advised that any restriction that may be imposed was not within the powers of the Borough Council and therefore not within the remit of the Licensing Sub-Committee. The area was also outside of the proposed licensed area that had been applied for. Councillor Manning suggested the use of lockable barriers may provide a solution.

9. OTHER PERSONS CASE/QUESTIONS

Mr Fleming presented his case and explained that he had taken over the running of Café Legge some 8 years ago. He stated that he had an outside terraced area which was used by his customers, some of which were children. The Café also only had an outside toilet. Prior to the redevelopment of The Spinney, Mr Fleming explained that when his customers left the terraced area they could step on to a pavement; this was no longer the case. The redevelopment would mean that his customers would now step off the terraced area to be confronted by oncoming vehicles. Mr Fleming stated that he had concerns regarding the safety of his customers. He explained that several vehicles were using the access road and he had placed a cone in the road to obstruct vehicles using the route.

Mr Fleming explained that during the recent half term week, The Spinney had been a "magnet" and seen a hive of activity, particularly young children using the entertainment area for such activities as BMX bikes and scooters.

Mr Fleming referred to the condition agreed with the Police in that during the period of any entertainment authorised within the licensed area, officers of the Borough Council would marshal the area but stated that this would not be on a daily basis and the area would still be used when no entertainment was taking place.

Mr Fleming stated that vehicle access was being allowed outside of his premises adjacent to the performance area. There was currently a 4 metre gap between his premises and the performance area with large vehicles (e.g. refuse vehicles) and cars being allowed to drive through the area. His customers could literally touch the vehicles from his terraced area. There was also unpleasant smells such as diesel and waste disposal. He explained that he had experienced cars and lorries manoeuvring through and coming from both directions. Cars were cutting across the new area when exiting the High Street and also driving across from Westgate. There was no defining dividing line between the access road and the potential licensed area. Mr Fleming stated that his business would be badly affected having invested heavily in it.

Mr Fleming reiterated he had grave concerns for the safety of his customers and the general public. He stated that he had no intention of siting tables and chairs on the highway area.

Mr Fleming made reference to an incident that had occurred in King's Lynn.

Mr Fleming explained that he was supportive of the redevelopment, stating that it would be good for the town but suggested to address concerns of public safety; a retractable bollard should be installed so the road could be used if necessary by the Emergency Services. Neighbouring businesses had originally pushed to allow access for deliveries; however subsequent alternative arrangements were now in place.

There were no questions from the Licensing Manager.

There were no questions from Mr Chisholm, however he did state that the reference made by Mr Fleming to the incident in King's Lynn was inaccurate. He also stated the monitoring of the area would be proportionate to the perceived level of risk.

In response to a question from the Chairman as to whether there was seating on what is now the paved access road prior to the redevelopment, Mr Fleming confirmed that there was not.

10. **SUMMING UP**

The Licensing Manager

The Licensing Manager summed up his case and reiterated that the Borough Council of King's Lynn & West Norfolk had made an application for a premises licence for the licensable activity of 'regulated entertainment' in relation to The Spinney, St Edmunds Terrace, Hunstanton.

The Licensing Manager advised that if the Sub-Committee were minded to grant the application, any conditions that they considered appropriate should be proportional and necessary to achieve the promotion of the licensing objectives which were reiterated to Members:

- the prevention of crime & disorder,
- public safety,
- the prevention of public nuisance, and
- the protection of children from harm

Any conditions should also be capable of being met by the Licence Holder.

The Licensing Manager stated that the primary concerns appeared to be outside the proposed licensed area and therefore outside of the remit of the Licensing Sub-Committee. He referred to the recent activities that were reported to have taken place during the half-term week and suggested that these would have occurred regardless of whether the area was licensed. The Licensing Manager also advised that the spontaneous performance of music, singing or dancing does not amount to the provision of regulated entertainment and therefore was not a licensable activity because the premises at which these spontaneous activities occurred would not have been made available to those taking part for that purpose.

The Licensing Manager requested that having regard to the representations received, the Licensing Sub-Committee consider the application, the report and take such steps as it considers appropriate for the promotion of the licensing objectives. These steps were:

- a) To grant the application under the terms and conditions applied;
- b) To grant the application with conditions that the Sub-Committee considers appropriate for the promotion of the licensing objectives;
- c) To reject all or part of the application.

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

Other Persons

Mr Fleming summed up his case and reiterated his main concerns were in relation to public safety and the safety of children. He suggested that the solution was to simply stop vehicular access on the paved highway area running alongside his business.

Applicant

Mr Chisholm summed up his case and reminded the Panel that as with all activities and events undertaken within the Resort, a review would be undertaken which was proportionate to the event. A risk assessment would also be undertaken, which would also be proportionate to the nature of the activity that was to take place. Any person or organisation who wished to undertake an activity on the area would also have to complete a booking application form and provide suitable insurance. An additional CCTV had been installed at the southern end of the High Street overlooking the performance area and adjacent highway.

In conclusion, Mr Chisholm stated that in his opinion there was nothing more that the Borough Council could do to make the area safer.

11. OUTSTANDING MATTERS

The Legal Advisor addressed the Sub-Committee and advised that when determining the application, Members should consider the four licensing objectives which were:

- the prevention of crime & disorder,
- public safety,
- the prevention of public nuisance, and
- the protection of children from harm.

Members would need to also consider the relevant parts of the written and oral evidence, the Borough Council's own Statement of Licensing Policy and the Section 182 Statutory Guidance issued under the Licensing Act 2003.

The Legal Advisor advised that the application must be considered on its own merits. She also advised that the starting point should be to consider whether the Sub-Committee were minded to grant the application. If for any reason the answer to this question was "no", the Sub-Committee should give consideration to refusing the application or granting the application with any appropriate conditions to address the licensing objectives in particular public safety and the prevention of children from harm.

The Legal Advisor referred to the applicant's submission in that they believed sufficient measures had been put in place (e.g. monitoring of

the licensed area and additional CCTV coverage) to address any concerns.

12. REACHING A DECISION

The Sub-Committee retired to consider their decision in private, accompanied and advised by the Legal Advisor on specific points of law and procedure and the Senior Democratic Services Officer for administration purposes, neither of whom took part in the decision making process. On all parties returning to the room, at the request of the Chairman, the Legal Advisor explained she had reiterated that the Licensing Sub-Committee only had the power to impose any conditions on the proposed licensed area which had been applied for; they had no general powers in terms of imposing road closures. She also explained that she had assisted the Sub-Committee with the formulation of their reasons.

13. DECISION

The Chairman read out the decision and reasons for the decision as follows:

APPLICATION

Kings Lynn and West Norfolk Borough Council, being the relevant licensing authority, received an application for a premises licence for The Spinney, St Edmunds Terrace, Hunstanton, PE36 5EH.

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

RESPONSIBLE AUTHORITIES

Norfolk Constabulary – Letter dated 30th December 2013 – objection subsequently withdrawn on 20th February 2014 on the basis of an additional condition (Condition 2 (b)) being attached to the licence.

No representations were received from the other ‘responsible authorities’, namely

- Norfolk Fire Service
- Norfolk Trading Standards
- Norfolk Children’s Safeguarding Board
- Norfolk Health Authority
- Planning
- Environmental Health (Health & Safety)
- Environmental Health/Community Safety (Environmental Protection Team)
- Borough Council of King’s Lynn & West Norfolk as the Licensing Authority

OTHER PERSONS

There was one letter of objection from an 'other person' and had been attached to the report before the Licensing Sub-Committee at Appendix Three.

HEARING

On 24th February 2014, a hearing was held to consider the application. 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.

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

- The Licensing Manager
- The Applicant's representative, Mr Chisholm
- Other Persons, Mr Fleming

SUMMARY OF EVIDENCE

The Licensing Manager presented his report.

The applicant's representative, Mr Chisholm presented the application on behalf of the King's Lynn & West Norfolk Borough Council. He explained that this piece of land was intended to be used as a public space for regulated entertainment. For any such entertainment, the Borough Council required a booking form, evidence of insurance and a Risk Assessment appropriate to the nature of the entertainment. He informed the Sub-Committee that CCTV is in place monitoring the space and that there is a Duty Officer who can respond to any concerns. With reference the adjacent road, he said that enquiries had been made with Norfolk County Council and that road closures can only be made where an event would, or it is foreseeable that, an event would spill onto the highway. Further fencing is available to the Borough Council to assist with people management using the area.

Mr Fleming raised his concerns. He runs a café adjacent to a paved road which runs between his café and the Spinney. Although he was supportive of the use of the space for public use, he had serious concerns regarding public safety including the safety of children. This concern related to the aforementioned road. He explained that his

customers can exit his café straight onto the road and that large vehicles can drive past close to the outside seating area of his café.

FINDINGS

The Sub-Committee were of the view that the management of this site has been carefully thought out. There is to be a proper booking system, insurance, risk assessments and monitoring of the site's use. The use of this site in this way will be of benefit to the public.

The Sub-Committee was of the view that Mr Fleming's concerns were not specific to this licensing application but relate to a separate problem about how the use of this road is permitted. Whilst the Sub-Committee appreciates these concerns, it has no power to order the road to be closed. However, it is the view of this Sub-Committee that negotiations should be undertaken with the Highways Department at Norfolk County Council regarding this separate but serious issue.

The Sub-Committee notes that, in addition to the use of the road being a matter for Norfolk County Council, in cases of moving traffic offences such matters can be enforced by the Police.

CONDITIONS

The Sub-Committee recognised that conditions will only be imposed on a licence where conditions are necessary for the promotion of one or more of the four licensing objectives. The Sub-Committee will only impose conditions on a licence where relevant representations have been made and it considers that it is necessary to impose conditions as a result of those representations. The following conditions were found to be appropriate:

1. The mandatory condition applicable under the Licensing Act 2003.
2. The conditions consistent with the operating schedule; (a) as detailed on page 5 of the Licensing Manager's report (b) the condition agreed with Norfolk Constabulary as detailed in their letter of 20th February 2014; namely that the Licence Holder will ensure that, during the period of any entertainment authorised within the licensed area, properly authorised officers of the Borough Council for Kings Lynn & West Norfolk monitor the licensed area and be available to respond to and deal with any of the risks that are identified in the generic risk assessment applicable to the licensed area, or any other incident that may present itself at the time.

DETERMINATION

The Sub-Committee grants the application for a premises licence for The Spinney, St Edmunds Terrace, Hunstanton, PE36 5EH with the conditions outlined 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.

The Chairman thanked everybody for their attendance and contributions and declared the meeting closed.

The meeting closed at 12.45pm