

BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK

**Minutes of the Licensing Sub Committee Meeting
held on Tuesday 6th May 2014 at 10am
in the Card Room, Town Hall, Saturday Market Place, King's Lynn**

PRESENT:

Sub-Committee Members:	Councillor C Crofts (Chairman) Councillor A Lovett Councillor M Pitcher
Borough Council Officers:	Rachael Edwards - Senior Democratic Services Officer John Gilbraith - Licensing Manager
Legal Advisor:	Cara Jordan
Premises:	King's Lynn Social Venue, 15 Littleport Street, King's Lynn
Applicant:	Mr Mohamed Ilyas
Applicant's Representative:	Mr Paul Byatt
Responsible Authorities:	Norfolk Constabulary, Mr Tony Grover, Licensing Officer Community Safety & Neighbourhood Nuisance (CS&NN) Alison Demonty, Community Safety & Neighbourhood Nuisance Officer

OBSERVING:

Councillor Mrs S Sandell.

1. WELCOME AND APOLOGIES

The Chairman welcomed everyone to the meeting and declared that the Sub-Committee were sitting to consider a variation application in respect of King's Lynn Social Venue, 15 Littleport Street, King's Lynn, PE30 1PP.

There were no apologies.

2. ITEMS OF URGENT BUSINESS

There were none.

3. DECLARATION OF INTERESTS

There were none.

4. **TO CONSIDER AN APPLICATION FOR A VARIATION OF A PREMISES LICENCE IN RESPECT OF KING'S LYNN SOCIAL VENUE, 15 LITTLEPORT STREET, KING'S LYNN. PE30 1PP**

The Chairman explained that a request had been received from the applicant's representative to meet with the representatives from the Responsible Authorities to ascertain whether an agreement could be reached that may mitigate their concerns. He therefore adjourned the hearing to enable these negotiations to take place.

On reconvening the hearing (10.20am), 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. All other parties introduced themselves. The Chairman explained that Councillor Mrs Sandell was a newly appointed member of the Licensing Committee and was attending for training purposes and was present to observe but would not take any part in the hearing.

5. **THE PROCEDURE**

The Legal Advisor outlined the procedure that would be followed at the hearing.

6. **THE APPLICATION**

The Licensing Manager explained that unfortunately an agreement had not been reached between the applicant and the representatives from the Responsible Authorities and therefore he advised that it was for the Sub-Committee to consider the variation application along with the three representations that had been received.

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, 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

The Licensing Manager explained that Mr Mohamed Ilyas had made an application under Section 34 of the Licensing Act 2003 to vary the premises licence for the King's Lynn Social Venue to extend the hours for the sale of alcohol and late night refreshment until 4am, add regulated entertainment and change the layout.

A copy of the application had been attached at Appendix 1 and a copy of the current premises licence had been attached at Appendix 2.

A summary of the proposed changes were as follows:

<u>Licensable Activity</u>	<u>Current</u>		<u>Proposed</u>	
Regulated Entertainment: Recorded Music (indoors only)	Monday to Sunday:	Not authorised	Monday to Friday and Sunday: *Saturday	7pm – 10pm 7pm - midnight
Sale of Alcohol (for consumption on the premises only)	Monday to Sunday: New Year's Eve:	11am – 12:30am 11am – 2am	Monday to Sunday:	11am – 4am
Late Night Refreshment (Indoors only)	Monday to Sunday: New Year's Eve:	11pm – 12:30am 11pm – 2am	Monday to Sunday:	11pm – 4am

*The Licensing Manager clarified that Regulated Entertainment, in the form of recorded music, was being applied for until midnight on a Saturday (and not as stipulated in the Agenda).

Mandatory Conditions

The Licensing Manager referred to page 29 of the Agenda which outlined the current Mandatory Conditions on the licence. He explained that the variation application, if granted would not attract any additional mandatory conditions.

Conditions Consistent with the Operating Schedule

There was currently one condition on the existing premises licence. The variation application, if granted would not attract any additional conditions which were not consistent with the operating schedule.

Representation from Responsible Authorities

Section 13(4) of the Licensing Act 2003 defined the 'Responsible Authorities' as the public bodies that must be sent copies of the application and were entitled to make representations.

Norfolk Constabulary were objecting to the variation application under the prevention of crime and disorder licensing objective. A copy of their letter dated the 14th April 2014 had been attached to the report at Appendix 3.

The Community Safety & Neighbourhood Nuisance Team were objecting to the variation application under the prevention of public nuisance licensing objective. A copy of their letter dated the 10th April 2014 had been attached to the report at Appendix 4.

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

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 business that were entitled to make representations to applications. Representations made must relate to the licensing objectives.

There had been one objection from 'other persons' to consider and a copy of this had been attached to the report at Appendix 5.

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 'Your Local' newspaper on Friday 21st March 2014 and should have been displayed on the premises until the 15th April 2014.

Plans

The variation application proposed a minor change to the layout and a copy of the proposed plan had been attached to the report at Appendix 6. The Licensing Manager explained that the only change was the addition of a counter in the main cafe area.

A location plan had been attached at Appendix 7.

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

The current Statement of Licensing Policy was approved by Full Council on the 25th November 2010 and the following extracts may be relevant to the application:

3.0 Fundamental principles

3.1 The 2003 Act requires that the Council carries 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 this 'Statement of Policy' will:

- (a) undermine the right of any individual to apply under the terms of the 2003 Act for a variety of permissions and to have any such application considered on its own merits;
- (b) override the right of any person to make representations on an application.

3.3 Every application will be dealt with impartially and on its individual merits. The Borough Council will not refuse to grant or vary an application unless it has received a representation from a responsible authority, such as the police or an environmental health officer, or an interested party, such as a local resident or local business, which is a relevant representation.

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

5.0 Licensing Hours

5.1 With regard to licensing hours, due consideration will be given to the individual merits of an application. The Borough Council recognises that, in some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided. This can help to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance.

5.2 The Borough Council wants to ensure that licensing hours do not inhibit the development of thriving and safe night-time local economies. This is important for investment, local employment and attractive to domestic and international tourists. Providing consumers with greater choice and flexibility is an important consideration, but should always be balanced carefully against the duty to promote the four licensing objectives and the rights of local residents to peace and quiet.

8.0 Crime Prevention

8.1 Licensed premises, especially those open late night/early morning can be a source of crime and disorder problems. The Borough Council expect operating schedules to satisfactorily address these issues, as appropriate from the design of the premises to the daily operation of the business.

18.0 Conditions

18.1 The Borough Council will not impose conditions unless it has received a representation from a responsible authority, such as the police or an

environmental health officer, or an interested party, such as a local resident or local business, which is a relevant representation, or is offered in the applicant's Operating Schedule. Any conditions will be proportional and necessary to achieve the Licensing Objectives.

Guidance Issued Under Section 182 of the Licensing Act 2003

Under Section 4 of the Act, Licensing Authorities must have regard to guidance issued under Section 182. The current Guidance had been issued by the Home Office in June 2013 and offered advice to Licensing Authorities on the discharge of their functions under the Act.

The following extracts may be relevant to the application and assist the Licensing Sub-Committee:

General principles

1.15 If an application for a premises licence or club premises certificate has been made lawfully and there have been no representations from responsible authorities or other persons, the licensing authority must grant the application, subject only to conditions that are consistent with the operating schedule and relevant mandatory conditions. It is recommended that applicants contact responsible authorities when preparing their operating schedules.

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;
- must be unambiguous and clear in what they intend to achieve;
- should not duplicate other statutory requirements or other duties or responsibilities
- placed on the employer by other legislation;
- must be tailored to the individual type, location and characteristics of the premises and events concerned;
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- should not replicate offences set out in the 2003 Act or other legislation;
- should be proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and

- should be written in a prescriptive format.

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; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

Crime and disorder

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder.

2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority ("SIA") as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.

2.3 Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

Public nuisance

2.18 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance

and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

- 2.19 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.20 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.21 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.22 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late-evening or early-morning when residents in adjacent

properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise immediately surrounding the premises may also prove appropriate to address any disturbance anticipated as customers enter and leave.

- 2.23 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.24 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.

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. In these cases, the licensing authority must grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the 2003 Act. This should be undertaken as a simple administrative process by the licensing authority's officials who should replicate the proposals contained in the operating schedule to promote the licensing objectives in the form of clear and enforceable licence conditions

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 (see paragraphs 9.4 to 9.10 below), 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 (see paragraphs 9.4 to 9.10 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

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 have a key role in managing the night-time economy and should have good working relationships with those operating in their local area⁴. 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 regard 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

- 9.28 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. If the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences.
- 9.29 Regulations made under the 2003 Act require that representations must be withdrawn 24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.
- 9.30 Applicants should be encouraged to contact responsible authorities before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.
- 9.31 There is no requirement in the 2003 Act for responsible authorities that have made representations to attend, but it is generally good practice and assists committees in reaching more informed decisions. Where several responsible authorities within a local authority have made representations on an application, a single local authority officer may represent them at the hearing if the responsible authorities and the licensing authority agree. This local authority officer representing other responsible authorities may be a licensing officer, but only if this licensing officer is acting as a responsible authority on behalf of the licensing authority and has had no role in the licensing determination process. This is to ensure that the responsible authorities are represented by an independent officer separate from the licensing determination process.

- 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 or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.
- 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 representations (including supporting information) presented by all the parties;
 - this Guidance;
 - its own statement of licensing policy.
- 9.35 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. 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; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety.
- 9.36 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information.

Determining actions that are appropriate for the promotion of the licensing objectives

- 9.38 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing 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.

- 9.39 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 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. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

Hours of trading

- 10.11 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.
- 10.12 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.

6.1 Questions to the Licensing Manager

Mr Byatt sought clarification as to whether, given the deregulation of regulated entertainment, a licence was only required if the entertainment took place between the hours of 11pm and 8am and in the presence of an audience of more than 200 people.

The Licensing Manager explained that this related to the introduction of The Live Music Act 2012 which extended the range of live music performances that could take place without a licence.

There were no questions from representatives from the Responsible Authorities or Members of the Sub-Committee.

7. THE APPLICANT'S CASE

Mr Byatt, on behalf of the applicant presented their case and took the opportunity to thank the Sub-Committee for allowing them an opportunity to negotiate with representatives from the Responsible Authorities.

Mr Byatt explained that the applicant had been a member of the King's Lynn community for some 20 years and was a well-respected local businessman. He owned a number of premises locally which operated with no problems. Mr Ilyas owned the venue in question and also the property situated next door. The variation application had been submitted to address a cultural need to cater for his present late night customer client base which mainly consisted of people who were from the Turkish community who wished to take advantage of events screened from Turkey late at night and also to play cards and drink as was their tradition.

Mr Byatt referred to the premises having previously been subject to a Noise Abatement notice but explained that this had been served on the previous tenants of the premises and whom Mr Ilyas had taken subsequent legal action against. In the unlikely event that similar problems occurred in the future, the applicant would surrender his licence and redevelop the premises as residential properties.

Mr Byatt explained that during the discussions with representatives from the Responsible Authorities, the applicant had offered to reduce the proposed opening hours as well as withdraw the proposal for regulated entertainment.

Mr Byatt stated that there appeared to be some concern with potential for noise and nuisance from people smoking outside the premises. He explained that previously customers had smoked at the front of the premises on the main street but the applicant was willing for a condition to be attached to the licence so that only the area at the back of the premises could be used in the future. He was also willing to display signs on the premises asking customers to leave quietly and to not disturb the neighbours.

Mr Byatt explained that the applicant had complied with the statutory requirements and advertised the application by way of a notice in "Your Local" newspaper and a blue notice had also been displayed on the premises. Only one representation had been received from "other persons" and it was difficult to ascertain how they would be directly affected by the application.

In conclusion, Mr Byatt requested that the Sub-Committee granted the application as applied or if they deemed it appropriate, with a reduction in the operating hours.

7.1 Questions to the applicant

In response to a question from the Licensing Manager, the applicant confirmed that he had contacted the Care Home situated adjacent to the premises and they had indicated that they were happy with the application.

Mr Grover questioned what measures the applicant would take, if the licence was granted until 4am, to control potentially drunk and violent people who were leaving the town centre. In response, Mr Byatt acknowledged the concerns raised but explained that the venue was not widely advertised to the general public but if such people did try and gain access to the venue they would be refused entry. The applicant was also willing for there to be a condition attached to the licence that would restrict entry after a certain time (say 2am). He confirmed that there were no plans to hire door staff but it would be down to the management to control any unruly customers.

Mr Grover, at the request of the Licensing Manager, clarified that the route from Norfolk Street through to Littleport Street was known as a “red route” and was a main route out of the town centre.

There were no questions from the Community Safety & Neighbourhood Nuisance Officer.

In response to questions from Members of the Sub-Committee, Mr Byatt clarified that although there was no designated smoking area marked on the plan of the premises (page 37), the area to the left of the toilet would be the area that would be used. It was only a small area, large enough for 2/3 people. The applicant was willing for a condition to be included that restricted the number of people who were permitted to smoke in the area at any one time. The applicant confirmed that there were automatic door closures on the doors. He also confirmed that at the most, he had 8/10 customers on a Saturday night.

In response to further questions, the applicant confirmed that he ran a number of different types of businesses. Mr Byatt acknowledged customers would have to go through the area marked on the plan “kitchen/food prep area” to access the toilet but explained that it was more of a communal area and no hot food was sold, only pre-packed items.

8. RESPONSIBLE AUTHORITIES CASE

8.1 Norfolk Constabulary

Mr Grover, Norfolk Constabulary presented his case and explained that the Police had made a representation regarding the application on the grounds that the crime prevention and disorder objective could be undermined.

He explained that the premises was predominantly seen to be within a residential area immediately adjacent to the town centre. The fear of the Police was that if the application was granted it would soon become widely known that there was a late night drinking venue available within 5 minutes' walk of the hub of the night time economy and that it could potentially attract numerous persons already suffering from the effects of intoxication and wishing to extend their drinking time. This could increase the risk of noise disturbance and alcohol fuelled crime and disorder occurring which would have a detrimental effect on the local and wider community.

Mr Grover explained that the Police would accept some compromises to the application as outlined on page 31 of the Agenda and this compromise still stood.

8.2 Questions to Mr Grover

There were no questions from the Licensing Manager.

Mr Byatt acknowledged the concerns raised by the Police and questioned whether there had been any problems experienced at a nearby late night drinking establishment which was open similar hours. Mr Grover explained that as far as he could recollect, the licence did not permit the sale of alcohol until 4am and the only problem he could recall was one of a domestic nature.

The Legal Advisor advised that no agreement had been reached between the parties and therefore she referred the Sub-Committee back to the Police's compromise as outlined on page 31 of the Agenda. Mr Grover clarified that the Police would accept a condition on the licence of "No Entry or Re-entry" to the premises after 1am on any day.

8.3 Community Safety & Neighbourhood Nuisance (CS&NN)

Mrs Demonty presented her case referring to her letter of representation on page 33 of the Agenda and explained that she had concerns over the application made for recorded music and extension of hours for late night refreshment and supply of alcohol. She explained that the premises had previously been subject to a Noise Abatement Notice on 15th May 2012 albeit it had been trading under a different name. She stated that it was her opinion that the venue was not currently suitable for any type of recorded music and/or regulated entertainment other than music that was incidental to the current use, i.e. background music.

Mrs Demonty also raised concerns that there was potential for a nuisance to arise in the form of people talking and shouting within and immediately outside the premises from patrons entering, leaving and smoking outside the premises, all of which could be difficult to control when residential properties were in very close proximity. She stated that she felt that the hours permitted within the current licence for the supply of alcohol and late night refreshment were sufficient for the location and nature of the venue and that she had concerns that any extension of such may give rise to complaint. Noise late in the evening/early morning could cause more disturbance than noise during the day as it can affect people's sleeping patterns.

Mrs Demonty explained that she would be willing to compromise and accept a reduction in opening hours applied for but only on a Friday and Saturday night. She also acknowledged that only allowing smoking at the rear of the property would assist but she was not satisfied that it would not still cause a nuisance. She was unaware if the residential property at the rear of the premises had windows overlooking the premises.

Mrs Demonty referred to the premises having previously been subject to a Noise Abatement Notice and took the opportunity to thank the applicant for complying with the notice albeit the premises had closed for a period of time.

8.4 Questions to Mrs Demonty

At the request of the Licensing Manager, Mrs Demonty clarified that the CS&NN Team would accept some compromise to the application with an extension to the hours on a Friday and Saturday night to 2am.

Mr Byatt suggested that the smoking area at the rear of the premises could be effectively managed to negate any problems that could occur. Mrs Demonty acknowledged that this could assist but would not alleviate the potential for noise disturbance and compared it to people having a conversation outside a bedroom window.

In response to questions raised by Members of the Sub-Committee, Mrs Demonty confirmed that the previous complaint that had been received had been from a local resident. She confirmed that action had been taken to alleviate the problems and the premises had also closed for a period of time.

9. "OTHER PERSONS"

In the absence of the "other person", the Licensing Manager drew the Sub-Committee's attention to the representation as detailed on page 35 of the Agenda.

10. SUMMING UP

10.1 Responsible Authorities

10.2 Norfolk Constabulary

Mr Grover explained that he had no further comments.

10.3 Community Safety & Neighbourhood Nuisance

Mrs Demonty, Community Safety & Neighbourhood Nuisance, summed up her case reiterating that in her opinion the venue was not suitable for any type of recorded music and/or regulated entertainment other music that was incidental to the current use. She also stated that other than an extension to the hours on a Friday and Saturday night, she felt that the hours permitted within the current licence for supply of alcohol and late night refreshment was sufficient for the location and nature of the venue.

10.4 The Applicant

Mr Byatt, on behalf of the applicant, summed up his case and reiterated his client's commitment, if the application was granted, to run the business responsibly and would ensure that there was no negative impact on local residents. He was also willing to work closely with the Responsible Authorities. Mr Byatt explained that currently people did smoke in the area situated at the rear of the premises and no concerns had been raised.

In conclusion, Mr Byatt requested that the Sub-Committee grant the application as applied for, or if they deemed it necessary, a reasonable reduction in opening hours and any appropriate conditions.

10.5 The Licensing Manager

The Licensing Manager summed up his case and referred the Sub-Committee in particular to the Section 182 Guidance, section 2.24 which stipulated that beyond the immediate area surrounding the premises, these were matters for the personal responsibility of individuals under the law. He also referred to Section 9.12 which stated that in their role as a responsible authority, the police were an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective.

The Licensing Manager also drew Members' attention to the representation from the Police and their compromise as outlined on page 31 of the Agenda. He also reiterated that CS&NN felt the hours permitted within the current licence were sufficient albeit they were willing to compromise on a Friday and Saturday night.

The Licensing Manager also advised the Sub-Committee that when determining the application, they should have a view to the promotion of the

licensing objectives in the overall interests of the local community and must give appropriate weight to:

- the steps that are appropriate to the promotion of the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- the Section 182 Guidance;
- the Borough Council of King's Lynn & West Norfolk's Licensing Policy.

The Licensing Manager requested that the Sub-Committee consider the application and either:

- a) Grant the variation application under the terms applied;
- b) Grant the variation application with conditions that the Sub-Committee considered appropriate for the promotion of the licensing objectives;
- c) Reject all or part of the variation application.

The Licensing Manager advised that any conditions the Sub-Committee considered appropriate, must be precise and enforceable.

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

11. OUTSTANDING MATTERS

The Legal Advisor had no further advice to offer.

12. 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. With the permission of all parties, Councillor Mrs Sandell remained in the room to observe the process.

On all parties returning to the room, at the request of the Chairman, the Legal Advisor explained she had offered no further legal advice to the Sub-Committee in relation to their decision but had assisted them with their facts and reasons.

The Chairman read out the decision and reasons for the decision as attached at Appendix One.

The meeting closed at 12.36pm

LICENSING SUB-COMMITTEE
DETERMINATION NOTICE

Date of Hearing	6th May 2014
Sub-Committee Members	Councillors C Crofts (Chairman), A Lovett and M Pitcher
Legal Adviser	Cara Jordan
Licensing Manager	John Gilbraith
Senior Democratic Services Officer	Rachael Edwards
Applicant's Name	Mr Ilyas
Applicant's representative:	Mr Byatt
Responsible Authorities:	Norfolk Constabulary, Tony Grover, Licensing Officer
	Borough Council of King's Lynn & West Norfolk, Community Safety & Neighbourhood Nuisance, Alison Demonty
Other Person:	Mr J Filowiat (not in attendance)
Premises Address	King's Lynn Social Venue 15, Littleport Street, King's Lynn, Norfolk PE30 1PP
Application	For a Grant of a Variation Application for a Premises Licence

APPLICATION

Kings Lynn and West Norfolk Borough Council, being the relevant licensing authority, received an application for a variation of a premises licence for King's Lynn Social Venue, 15, Littleport Street, King's Lynn, Norfolk. PE30 1PP

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

RESPONSIBLE AUTHORITIES

Norfolk Constabulary – Letter dated 14th April 2014

Community Safety & Neighbourhood Nuisance – Letter dated 10th April 2014

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)
- 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 Five.

HEARING

On 6th May 2014, a hearing was held to consider the variation 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 and his representative
- Responsible Authorities, namely; Norfolk Constabulary and the Borough Council of King's Lynn & West Norfolk - Community Safety & Neighbourhood Nuisance;

The Sub-Committee also considered a written representation from one "other person".

SUMMARY OF EVIDENCE

The Licensing Manager presented his report and outlined the variation application to the Sub-Committee explaining that the applicant had applied to extend the hours of sale of alcohol and late night refreshment until 4am and regulated entertainment and also a minor change in the layout.

The applicant's representative, Mr Byatt presented the application

Mr Grover, Norfolk Constabulary presented his case and explained that the Police had concerns that the application would undermine the Crime Prevention and Disorder Objective.

Mrs Demonty, Community Safety & Neighbourhood Nuisance presented her case outlining her concerns with the application made for recorded music and extension of hours for late night refreshment and supply of alcohol based on the prevention of public nuisance.

FINDINGS

The Sub-Committee considered the four licensing objectives, balancing this variation application with the rights of the local community. This venue is situated in what is principally a residential area adjacent to a Care Home, the Licensing Sub-Committee were of the view that this venue

was not suitable for recorded music which becomes more apparent later in the evening when background noise diminishes and could detrimentally effect the sleeping patterns of local residents.

Having listened to the Police's concerns, the Licensing Sub-Committee were concerned that substantially extending the opening hours for the sale of alcohol and late night refreshment would increase the risk of crime and disorder within the area. The Sub-Committee understands that this venue is situated on a known exit route from the town centre and if the hours were extended that there would be an increased risk of noise disturbance and crime and disorder which would have a negative impact on local residents and the local community.

CONDITIONS

The following conditions apply to the licence:

1. The mandatory conditions applicable under the Licensing Act 2003.
2. The condition consistent with the operating schedule;

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 and make amendments 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:

3. Regulated Entertainment (recorded music indoors only) only to take place Sunday to Friday from 7pm – 10pm
4. Regulated Entertainment (recorded music indoors only) only to take place on Saturday from 7pm to 11pm.
5. Sale of alcohol no later than 2am on each day.
6. The premises to be closed to the public no later than 2.30am on each day.
7. "No Entry or Re-entry" to the premises after 1am on any day.
8. Notices will be clearly displayed at the entrance to the premises (both inside and outside) informing customers of the condition of entry/re-entry as described at "7" above.
9. Late Night Refreshment from Monday to Sunday 11pm to 2am.

The amendments and conditions detailed at 3 to 9 above are imposed to meet the licensing objectives of the prevention of crime and disorder and prevention of public nuisance. These are imposed to prevent noise nuisance and crime and disorder in accordance with our findings above.

DETERMINATION

The Sub-Committee determined to grant the application for a variation of a premises licence for King's Lynn Social Venue, 15, Littleport Street, King's Lynn, Norfolk. PE30 1PP 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.

Signed.....
Chairman (Councillor C Crofts)



Date: 6th May 2014