

Borough Council of  
**King's Lynn &  
West Norfolk**



# **Licensing Committee**

## **Agenda**

**Wednesday, 2nd May, 2018**

at 4.05 pm or upon the rising of the Licensing and Appeals Board, whichever is the later.

in the

**Council Chamber  
Town Hall  
Saturday Market Place  
King's Lynn**





**King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX**  
**Telephone: 01553 616200**  
**Fax: 01553 691663**

Tuesday, 24 April 2018

Dear Member

**Licensing Committee**

You are invited to attend a meeting of the above-mentioned Sub Committee which will be held on **Wednesday, 2nd May, 2018 at 4.05 pm** in the **Council Chamber, Town Hall, Saturday Market Place, King's Lynn PE30 5DQ** to discuss the business shown below.

Yours sincerely

Chief Executive

**AGENDA**

**1. Apologies for absence**

To receive any apologies for absence.

**2. Minutes from previous meetings (Pages 5 - 41)**

To approve the minutes from the following meetings as a correct record:

7<sup>th</sup> March 2017  
24<sup>th</sup> May 2017  
27<sup>th</sup> June 2017, 10.00am  
27<sup>th</sup> June 2017, 1.30pm  
23<sup>rd</sup> August 2017  
21<sup>st</sup> November 2017  
27<sup>th</sup> February 2018.

A separate document providing details of the Hearings has been sent to Members.

**3. Declarations of Interests**

Please indicate if there are any interests which should be declared. A declaration of an interest should indicate the nature of the interest (if not already declared on the Register of Interests) and the agenda item to which it relates. If a disclosable pecuniary interest is declared, the member should withdraw from the room whilst the matter is discussed.

**4. Items of Urgent Business**

To determine any other items of business which the Chairman decides should be considered as a matter of urgency pursuant to Section 100B(4)(b) of the Local Government Act 1972.

**5. Members Present Under Standing Order 34**

**6. Chairmans Correspondence**

**7. Draft Licensing Protocol (Pages 42 - 47)**

To comment on the draft Protocol.

**8. Any Other Business**

**9. Date of the next meeting**

To:

**Licensing Committee:** Councillors Miss L Bambridge, C J Crofts (Chairman), Mrs S Fraser, M Hopkins, C Manning, T Parish, C Sampson, Miss S Sandell (Vice-Chairman), T Tilbrook, D Tyler, D Whitby, A White, Mrs M Wilkinson and Mrs S Young

**BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK**

**LICENSING COMMITTEE**

**Minutes from the Meeting of the Licensing Committee held on Tuesday, 7th March, 2017 at 4.05 pm in the Committee Suite, King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX**

**PRESENT:** Councillors Miss L Bambridge, C J Crofts, C Manning, T Parish, C Sampson, Mrs S Squire, Councillor Tim Tilbrook, D Tyler, D Whitby and A White

**1        APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Buck, Hopkins and Sandell.

**2        MINUTES FROM PREVIOUS HEARINGS FOR SIGNATURE**

**RESOLVED:** The minutes from the following meetings were agreed as a correct record and signed by the Chairman:

1<sup>st</sup> September 2015  
 2<sup>nd</sup> February 2016  
 9<sup>th</sup> February 2016  
 1<sup>st</sup> March 2016  
 17<sup>th</sup> March 2016  
 21<sup>st</sup> September 2016, 10.00am  
 21<sup>st</sup> September 2016, 10.45am  
 30<sup>th</sup> September 2016  
 13<sup>th</sup> January 2017  
 20<sup>th</sup> January 2017  
 8<sup>th</sup> February 2017, 1.22pm  
 8<sup>th</sup> February 2017, 2.00pm

**3        DECLARATIONS OF INTERESTS**

There was no declarations of interest.

**4        ITEMS OF URGENT BUSINESS**

There was no urgent business.

**5        MEMBERS PRESENT UNDER STANDING ORDER 34**

None.

6 **CHAIRMAN'S CORRESPONDENCE**

None.

7 **LICENSING MANAGERS REPORT**

The Committee were referred to the schedule of Hearings which had been circulated to Members in advance of the Meeting. The Board was advised that an informal training session for Members would take place after the meeting.

8 **ANY OTHER BUSINESS**

There was none.

9 **DATE OF THE NEXT MEETING**

To be scheduled as required.

**The meeting closed at 4.10 pm**

**BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK**

**LICENSING COMMITTEE**

**Minutes from the Meeting of the Licensing Committee held on  
Wednesday, 24th May, 2017 at 10.00 am in the Card Room, Town Hall,  
Saturday Market Place, King's Lynn**

**PRESENT:** Councillors C J Crofts, T Parish and C Sampson

**OFFICERS:**

John Gilbraith	-	Licensing Manager
Noel Doran	-	Legal Advisor
Kathy Wagg	-	Democratic Services Officer

**1      APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**2      ITEMS OF URGENT BUSINESS**

There was no urgent business.

**3      DECLARATIONS OF INTERESTS**

There was no declarations of interest.

**4      TO CONSIDER AN APPLICATION FOR A PREMISES LICENCE FOR  
STOP 'N' GO, 53 LONDON ROAD, KING'S LYNN**

The Chairman welcomed everyone to the meeting and declared that the Sub-Committee was sitting to consider an application for a premises licence in respect of Stop 'n' Go, 53 London Road, King's Lynn. He introduced the Sub-Committee, the Borough Council officers and the legal Advisor and explained their roles.

The Chairman also invited the applicant Mr Saravanapavan and his representative Mr Sakthiyenthiran to introduce themselves to the Panel. Both confirmed that 15 minutes was sufficient to present their case.

The Chairman also invited the 'other persons' to introduce themselves to the Panel, namely Councillor Lesley Bambridge, Mr J Clench and Mr D Nimmo. All confirmed that 15 minutes would be sufficient to present their case.

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

At the request of the Chairman, the Legal Advisor outlined the procedure which would be followed at the Hearing.

## 6 **REPORT OF THE LICENSING MANAGER**

The Licensing Manager presented his report to the Sub-Committee. The Licensing Manager explained that the applicant had made an application under Section 17 of the Licensing Act 2003 for the sale of alcohol by retail. If the application was granted it would allow the sale Monday to Sunday 6am – 11pm.

The Licensing Manager made reference to the following:

- The four mandatory conditions;
- The proposed conditions;
- There were no representations from responsible authorities;
- Five representations had been received from 'other persons' which had been attached to the report;
- The Sub-Committee would need to have regard to the King's Lynn and West Norfolk Borough Council's Licensing Policy and Statutory Guidance issued under the Licensing Act 2003.

There were no questions from the applicant or his representative on the report.

There were no questions from the 'other persons' on the report.

There were no questions from the Panel to the Licensing Manager.

## 7 **THE APPLICANT'S CASE**

The Chairman then invited the applicant and his representative to present his case. The applicant made reference to the objections to the application in particular the one from 24 Avenue Road, King's Lynn which was quite away from the premises.

The applicant indicated that they would be willing to change the timing of the opening hours from 8am to 10pm, however as not all parties were present at the hearing a consensus of agreement could not be reached.

The Licensing Manager explained that the objection was from Councillor Bambridge who represented people living in and around the area.

There were no questions from the Licensing Manager.

There were no questions from Mr Nimmo or Mr Clench.



Councillor Bambridge made reference to the fact that the applicant had indicated that they would be willing to change the times to open at 8.00 am and asked why they had applied for 6.00 am.

The Licensing Manager explained that the Act did encourage dialogue between the parties.

Councillor Sampson referred to the photograph attached at page 43 of the agenda and asked whether it was the applicant's intention for the premises to look like the photograph.

The applicant responded that it was not his intention for the premises to look like that.

Councillor Parish asked how many staff would be employed at the premises.

The applicant advised that 2 or 3 people could be in the shop at any one time and would work around 6 hours per shift.

In response to questions from Councillor Crofts, the applicant explained that training would be provided to staff, CCTV would be installed inside and outside the premises and would hold up to one month's recordings.

Councillor Sampson asked whether the applicant's insurance company was satisfied with the CCTV arrangements.

The applicant advised that if the insurance company was not satisfied with the proposed CCTV arrangements then he would engage a third party.

## 8 **THE OTHER PERSONS CASE**

The Chairman then invited Mr Nimmo to present his case. Mr Nimmo explained that there were already too many outlets along London Road selling alcohol and he had witnessed the public nuisance caused by this. He further explained that particularly at White's Paper Shop there was an issue of people hanging around the premises. He added that the problem was being moved along from one area to another.

There were no questions from the Licensing Manager to Mr Nimmo.

The applicant explained that at the time he paid his deposit for the premises, he did not realise that there was an application for No.58 London Road.

The Chairman then invited Mr Clench to present his case. Mr Clench explained that there were already enough establishments where

alcohol could be purchased. He considered that the 11pm was too late and would disturb residents. He also stated that children walked to school along London Road and would have to pass undesirable people. He considered that a retail outlet would be a benefit but not selling alcohol.

The Licensing Manager asked if the objectors would be prepared to withdraw their objections if the hours were amended, as proposed by the applicant.

Mr Clench responded that he would not like to see alcohol sold at school times. He considered that the proposal went some way to alleviate his concerns but not all the way.

The Chairman then invited Councillor Lesley Bambridge to present her case. Councillor Bambridge stated that she was not against a business use but as she had explained in her letter there was a hostel on the opposite side of the road, which was particularly for those with alcohol and drug problems. She explained that the residents had to leave the hostel at 8.00 am. She added that people were then buying alcohol at 6am and she had witnessed incidents which she outlined to the Sub-Committee.

Councillor Bambridge also referred to the cumulative impact of alcohol outlets and referred to a scheme which was operational in Wisbech. She added that the Council wanted to encourage King's Lynn as a tourist destination. The Council were also looking at a Townscape Heritage Initiative for the London Road area which was a main gateway into the town.

Councillor Bambridge added that in relation to the Police not objecting to the application, the Police Officer responsible for providing a response was based in Norwich.

She added that the issue of street drinking was regularly raised at the King's Lynn Town Centre Partnership meetings and also the SNAP meetings, which she was appointed to by the Council. Councillor Bambridge informed the Sub-Committee that a resident who worked at the library had reported that the library's car park was being used as a lavatory.

Councillor Bambridge asked that in relation to future applications for the sale of alcohol in her Ward, that she be consulted.

There were no questions for Councillor Bambridge.

The Licensing Manager then went through the other objections which needed to be taken into account.

The Licensing Manager summed up his case. He reminded the Panel that the applicant had offered to amend the hours to 8am to 10pm however there was not a consensus of agreement, therefore the applicant had reverted back to the previous times of 6am to 11pm.

The Licensing Manager referred to the conditions listed on page 13 of the agenda, if the Panel were to grant the licence for the sale of alcohol.

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

- (a) To grant the application under the terms and conditions applied;
- (b) To grant the variation 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 their decision must be given as both the applicant and persons making representations have a right of appeal against that decision to the Magistrate's Court.

## 10 **SUMMING UP - OTHER PERSONS**

The Chairman invited Mr Nimmo to sum up his case. Mr Nimmo explained that he objected to the application on the grounds on public nuisance, which already existed and he considered would be increased if the application was granted. He referred to the fact that children would pass the premises on the way to school. He considered that the public nuisance element would not go away.

Mr Clench then summed up his case. He agreed with the comments made by Mr Nimmo and added that children did need to be considered. He considered that a business would benefit the area.

Councillor Bambridge summed up her case. She added that it was not just children that would be affected but everyone. She explained that there were lots of other outlets in the vicinity where alcohol could be purchased.

## 11 **SUMMING UP - THE APPLICANT**

The Chairman invited Mr Saravanapavan to sum up his case. He explained that he owned two shops and had never received a

complaint. The shop would also sell household items. He added that he would never sell alcohol to an underage person nor would he sell alcohol at a cheap price.

## 12 **OUTSTANDING MATTERS**

The Council's Legal Advisor explained that there were no outstanding matters to address.

## 13 **REACHING A DECISION**

The Sub-Committee retired to consider its decision in private, accompanied by the Democratic Services Officer and the Legal Advisor on specific points of law.

## 14 **DECISION**

### **Findings**

The Sub-Committee had due regard to the report of the Licensing Manager, representations put forward in the agenda and the representations put forward at the hearing by the applicant and 'other persons'.

The Sub-Committee only considered representations that were relevant to their consideration of this application.

### **Determination**

Given the representations that have been submitted, the Sub-Committee is concerned at the preponderance of outlets from which alcohol can be purchased in the vicinity of the proposed licensed premises, in an area which is residential and regularly traversed by large numbers of school children. However, it is not the role of the Sub-Committee in determining this licence application to resolve problems that may already exist and it must operate within the principles of the licensing objectives.

The Sub-Committee noted that no representations had been received from any of the Responsible Authorities, in particular from the Police, which is a factor that must be taken into account and to which weight must be given. Because of the specific location of the proposed licensed premises, and taking into account the representations submitted, the Sub-Committee has concerns about the impact of granting a licence on the statutory objectives of the protection of children from harm and the prevention of public nuisance.

The Sub-Committee grants the application for a premise licence for Stop 'n' Go, 53 London Road, King's Lynn subject to the addition of the

Mandatory Conditions, the proposed Conditions consistent with the operating schedule, as set out in the Licensing Manager's Report, and an additional condition limiting the time within which alcohol can be sold to between the hours of 9.00 am and 11.00pm, in the interests of promoting the statutory licensing objectives of the protection of children from har and the prevention of public nuisance.

**The meeting closed at 12.00 pm**

**BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK**

**LICENSING COMMITTEE**

**Minutes from the Meeting of the Licensing Committee held on Tuesday,  
27th June, 2017 at 10.00 am in the Committee Suite, King's Court, Chapel  
Street, King's Lynn, Norfolk, PE30 1EX**

**PRESENT:** Councillors C J Crofts (Chairman)  
Councillors Miss L Bambridge and D Whitby

**OFFICERS:**

Noel Doran – Legal Advisor  
John Gilbraith – Licensing Manager

1 **APOLOGIES FOR ABSENCE**

There were no apologies for absence.

2 **ITEMS OF URGENT BUSINESS**

There was no urgent business.

3 **DECLARATIONS OF INTERESTS**

There were no declarations of interest.

4 **TO CONSIDER AN APPLICATION FOR A PREMISES LICENCE FOR  
NO. TWENTY 9, MARKET PLACE, BURNHAM MARKET**

The Chairman welcomed everyone to the meeting and declared that the Sub-Committee was sitting to consider an application for a Premises Licence in respect of No. Twenty 9, Market Place, Burnham Market, Norfolk. He introduced the Sub-Committee, the Borough Council officers and the Legal Advisor and explained their roles.

The Chairman informed those present that Senior Licensing Enforcement Officer, Marie Malt and Councillor Sandell would be observing the Hearing.

The Applicant, Mr Roberts from Ambury Developments (SKN) Limited introduced himself.

The other persons present, Mr and Mrs Cartwright introduced themselves.

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

At the request of the Chairman, the Legal Advisor outlined the procedure which would be followed at the Hearing.

## 6 **REPORT OF THE LICENSING MANAGER**

The Licensing Manager presented his report to the Sub-Committee and made reference to the following:

- The application, as included in the Licensing Managers report.
- The four licensing objectives.
- The Mandatory Conditions and conditions consistent with the operating schedule.
- That under the Live Music Act (2012) as amended by the Licensing Act 2003 (Description of Entertainment)(Amendment Order 2013) live and recorded music could be offered on licensed premises between 8am and 11pm without a licence, provided that certain conditions were met.
- There were no representations from any of the responsible authorities to consider.
- There were seven representations from other persons to consider, which had been included in the Licensing Managers report. The Licensing Manager explained that the Sub-Committee would need to give consideration to the representations, even if the other persons were not present at the Hearing to present their case.
- The Sub-Committee would need to have regard to the King's Lynn and West Norfolk Borough Council's Statement of Licensing Policy and the Section 182 Guidance issued by the Home Office.

There were no questions to the Licensing Manager from any of the parties present at the Hearing.

## 7 **THE APPLICANT'S CASE**

The Applicant, Mr Roberts, presented his case. He explained that he had some additional documents which he would be referring to, which could be circulated to attendees at the Hearing if requested. Mr Roberts provided information on his personal and business background. He felt that his application for a premises licence confidently addressed the four Licensing Objectives.

The Sub-Committee were provided with information on the history of the site and the required planning permissions which had been granted. Mr Roberts explained that he had attended Parish Council meetings to provide information on his plans for No Twenty 9 and had copies of the minutes of the Parish Council meetings available. He explained that the Parish Council had initially not objected to the planning application, but at a subsequent meeting Mr Cartwright had

raised concerns and asked for the application to be reconsidered. The application was then reconsidered and the Parish Council supported the application with a few comments. Mr Roberts provided information on how he planned to mitigate the comments made by the Parish Council. He explained that use of the Courtyard would be restricted to 9pm. He also referred to other Licensed Premises in the village and explained that another pub had a licence until 12pm, seven days a week.

Mr Roberts explained that the application for late night refreshment from 11pm to 11.30pm was to cover 'drinking up' time. Mr Roberts stated that he felt that he had satisfied the Mandatory Conditions and he would be the Designated Premises Supervisor. He explained that he held a Personal Licence and the Challenge 25 scheme would be introduced at the premises.

The Sub-Committee was informed that the conditions consistent with the operating schedule had been agreed by the Police as required and would be adhered to.

Mr Roberts provided a response to the seven letters received from other persons and highlighted the following:

- He did not agree with some of the distances that other persons had included in their representations and explained that there was not a direct line of view.
- The application for late night refreshment was to cover 'drinking up' time.
- He explained that some of the other persons had also objected to the planning application.
- He felt that Burnham Market was a vibrant village and the new car park was often busy, even in the evening.
- He did not feel that a 9.30pm end time and closure on a Sunday was appropriate, as other businesses in the village had longer opening times.
- He was not intending for the premises to be an events venue, it would be a Bar and Restaurant.

Mr Roberts explained that he had applied for an amendment to his Planning Application to bring his opening hours in line with the hours applied for under the Premises Licence. He also stated that he had a plan detailing the proximity of residents from his Premises and from the other Pub in the village.

The Licensing Manager clarified that live and recorded music could be provided at licensed premises between 8am and 11pm without requiring a licence. At the request of the Licensing Manager the additional information which Mr Roberts referred to was circulated to the Sub-Committee.



Mr Roberts responded to questions from the Sub-Committee and he explained that he had originally requested regulated entertainment on his licence, but this was subsequently withdrawn as he did not realise that this was no longer necessary. He explained that any live entertainment would take place in the bar area at the front of the premises.

## 8 **THE OTHER PERSONS CASE**

Mr Cartwright presented his case. He stated that his wall abutted the north boundary of the premises and faced the Orangery. He informed the Sub-Committee that there were currently builders working at No Twenty 9 and he could hear their radio, even when his windows and doors were shut. Mr Cartwright explained that he was concerned about the disturbance and noise which would be caused by the Premises and he disagreed with Mr Robert's statement that there were not any permanent residents surrounding the Premises. He explained that retired residents surrounded the premises on the north, east and west boundary.

Mr Cartwright was concerned about live music and dance and referred to the original application which had this added onto it, but was subsequently withdrawn. He explained that he was a permanent resident and he and his wife were retired. They felt that Burnham Market was a quiet village, especially after 6pm and the car park was often empty in the evening. He stated that the venue was surrounded by residential neighbours and he was concerned about noise disturbance.

Mr Cartwright explained that he was objecting to the application under the prevention of public nuisance licensing objective.

He stated that he felt that the modifications to the building and the new Orangery extension, would not abate noise and instead would amplify it out onto the Courtyard. He explained that the Planning Permission was based on a restaurant and bar which would provide a small and intimate dining experience and there was no indication that music and dancing would be provided. He explained that by originally applying for regulated entertainment and then withdrawing the application, as it was no longer required to be applied for, the Applicant was showing intent on using the venue for regulated entertainment.

Mr Cartwright referred to the amendment to the Planning Permission, which had been applied for to extend opening hours to match those applied for on the Premises Licence. He felt that neighbours should have been consulted on this, before the planning application was submitted.

Mr Cartwright referred to his objection letter, which had been included in the Licensing Managers report. He referred to the conditions which

he suggested be attached to the Licence, should it be granted. These included:

- Live music must not be allowed
- Dancing must absolutely not be allowed
- Recorded music to be background music for quiet dining only
- Music to be indoors only
- Music to be allowed only between the hours of midday and 9.30pm
- Alcohol to be served indoors only between the hours of 12pm and 9.30pm Monday to Saturday.
- No alcohol to be served outdoors
- Use of outdoor area to cease at 8pm
- No trading on a Sunday

Mr Cartwright responded to questions from the Licensing Manager and confirmed that he believed his suggested conditions would be appropriate to attach to the licence.

The Licensing Manager advised that the Sub-Committee did not have to power to impose conditions regulating live and recorded music.

Mr Roberts asked Mr Cartwright why he felt that the venue would be primarily used as a music and dancing venue. He stated that it would be an intimate dining venue and private areas would be available. Mr Cartwright explained that this was included in the Applicant's original application.

Mr Roberts asked which residents Mr Cartwright was referring to, who surrounded the Premises as he was only aware of two permanent residents. Mr Cartwright explained that there were three that shared a boundary wall with No Twenty 9, Market Place.

In response to a question from Councillor Bambridge, Mr Cartwright explained that the music coming from the builders' radio was positioned inside the premises and he could still hear it in his house.

Councillor Crofts asked if there was ever a disturbance from live and recorded music at the other licensed premises in the village. Mr Cartwright explained that sometimes he could hear it, but it was much further away.

9

## **SUMMING UP - LICENSING MANAGER**

The Licensing Manager summed up his case. He reminded the Sub-Committee that although only one of the other persons were present at the Hearing, due regard should be had to all of the representations submitted and included within his report.

The Licensing Manager clarified that the Applicant had originally requested regulated entertainment, but this was subsequently withdrawn as live and recorded music could be provided on licensed premises between 8am and 11pm without a licence, provided certain conditions were met. He explained that if the application was granted and caused disturbance for residents, they could call for the Premises Licence to be reviewed and a review Hearing could impose conditions relating to live and recorded music.

The Licensing Manager referred to the Section 182 guidance and the extracts from it, as included in his report. He explained that the Sub-Committee should have regard to the guidance, or give reasons why it would deviate from it. He explained that the objections related to the prevention of public nuisance licensing objective.

The Licensing Manager explained that there were ten licensed premises in Burnham Market and only two of them closed before 11pm.

The Licensing Manager requested that the Sub-Committee consider the information included in the Agenda and presented at the Hearing and take such steps as it considered appropriate for the promotion of the four licensing objectives and dispose of the matter by using one of the following options:

- 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 their decision must be given as all parties had a right of appeal against that decision to the Magistrates' Court.

## 10 **SUMMING UP - OTHER PERSONS**

Mr Cartwright summed up his case. He confirmed that he now understood the legal position regarding live and recorded music and that the Sub-Committee could not condition it at this stage. He explained that the only way the Sub-Committee could consider the concerns of residents would be to limit the licensed hours. He asked the Sub-Committee to focus on reducing the licensed hours to be appropriate to a restaurant.

## 11 **SUMMING UP - APPLICANT**

Mr Roberts summed up his case. He explained that he had spent a lot of time preparing for this Hearing, which showed his commitment to the Premises. He reminded the Sub-Committee that only one objector had

turned up to the Hearing and he hoped that his evidence had alleviated any concerns that the Sub-Committee may have. He explained that he had worked with the Planning Department and Conservation Officer at the Council and had presented plans to the Parish Council as appropriate. He explained that it was not his intention for it to become an entertainment venue.

He felt that the opening of the bar and restaurant would be a benefit for the local community and would offer employment opportunities. He explained that he would personally be running the premises and would make his contact details available to immediate residents, so that they could contact him direct if they had any concerns.

## 12 **OUTSTANDING MATTERS**

The Council's Legal Advisor advised there were no outstanding matters.

## 13 **REACHING A DECISION**

The Sub-Committee retired to consider its decision in private, accompanied by the Democratic Services Officer and Legal Advisor on specific points of Law.

## 14 **DECISION**

### **FINDINGS**

The Sub-Committee had due regard to the report of the Licensing Manager, representations put forward in the agenda and the representations put forward at the Hearing by all parties.

### **DETERMINATION**

The Sub-Committee, in reaching its decision, notes the concerns raised by nearby residents, both orally and in correspondence, in relation to the statutory objective of the prevention of public nuisance. It recognises that the opening of new licensed premises has the potential to cause issues, including noise and other disturbance, that may amount to a public nuisance. It therefore understands the position of those that have objected to this application.

The Sub-Committee must also note that no representations were received from any of the Responsible Authorities, which is a matter to which it must attach weight. In addition, the Sub-Committee notes the efforts made by the applicant, himself a local resident, to address the issues raised by all the relevant regulatory bodies and to engage with the local community.

While the opening of new licensed premises can cause a public nuisance, there is insufficient evidence before the Sub-Committee that the granting of this application will result in the compromise of any of the statutory objectives.

The Sub-Committee grants the application for a premises licence for No. Twenty 9, Market Place, Burnham Market, Norfolk PE31 8HF, subject to the addition of the Mandatory Conditions and the proposed conditions consistent with the Operating Schedule as set out in the Licensing Manager's Report.

**The meeting closed at 12.07 pm**

**BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK**

**LICENSING COMMITTEE**

**Minutes from the Meeting of the Licensing Committee held on Tuesday,  
27th June, 2017 at 1.30 pm in the Committee Suite, King's Court, Chapel  
Street, King's Lynn**

**PRESENT:** Councillor C J Crofts (Chairman)  
Councillors Miss L Bambridge and D Whitby

**OFFICERS:**

Noel Doran – Legal Advisor

John Gilbraith – Licensing Manager

1 **APOLOGIES FOR ABSENCE**

There were no apologies for absence.

2 **ITEMS OF URGENT BUSINESS**

There was no urgent business.

3 **DECLARATIONS OF INTERESTS**

There were no declarations of interest.

4 **TO CONSIDER AN APPLICATION TO VARY THE DESIGNATED  
PREMISES SUPERVISOR AT 7 DAYS, 122 LONDON ROAD, KING'S  
LYNN**

The Chairman welcomed everyone to the meeting and declared that the Sub-Committee was sitting to consider an application to vary licence to nominate individual as Premises Supervisor at 7 days, 122 London Road, King's Lynn. He introduced the Sub-Committee, the Borough Council officers and the Legal Advisor and explained their roles.

Chris Brooks from Norfolk Police introduced himself. He was accompanied by Vicky Conlon from Norfolk Trading Standards and PC Chris Spinks from Norfolk Constabulary.

The Applicant, Mr Saeyd introduced himself. He was accompanied by Ms Sawicka.

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

At the request of the Chairman, the Legal Advisor outlined the procedure which would be followed at the Hearing.

Chris Brook applied to the Sub-Committee to hold the rest of the Hearing in closed session. This was because he had sensitive evidence and intelligence to present to the Sub-Committee.

The Sub-Committee considered the request and it was agreed that the Hearing proceed in closed session.

**RESOLVED:** That in accordance with Regulation 14(2) of the Licensing Act 2003 (Hearing Regulations) 2005, the press and public be excluded from the Hearing.

## 6 **REPORT OF THE LICENSING MANAGER**

The Licensing Manager presented his report to the Sub-Committee and provided information on the application to vary the licence to nominate an individual as Premises Supervisor. The Licensing Manager highlighted the following:

- The Police had objected to the application and their representations had been included in the Licensing Managers report.
- The four Licensing Objectives.
- The Sub-Committee would have to have regard to the King's Lynn and West Norfolk Borough Council's Statement of Licensing Policy and the Section 182 Guidance issued by the Home Office.

There were no questions to the Licensing Manager.

## 7 **THE APPLICANT'S CASE**

The Applicant presented his case. Mr Saeyd and Ms Sawicka responded to questions from all parties.

## 8 **THE RESPONSIBLE AUTHORITY'S CASE**

Chris Brooks from the Police presented his case, calling on Vicky Conlon from Norfolk Trading Standards to provide additional evidence, and responded to questions from all parties.

## 9 **SUMMING UP - THE LICENSING MANAGER**

The Licensing Manager reminded those present that an application had been received to vary the licence to nominate an individual as Premises Supervisor. The Licensing Manager explained that the Sub-Committee should have regard to the Licensing Manager's report and the representations put forward at the Hearing and dispose of the matter by either granting or rejecting the application. The Sub-

Committee were reminded that full reasons for their decision must be given as all parties had a right of appeal to the Magistrates Court.

10 **SUMMING UP - RESPONSIBLE AUTHORITY**

Chris Brooks from the Police summed up his case and reiterated his concerns.

11 **SUMMING UP - APPLICANT**

The Applicant summed up his case.

12 **OUTSTANDING MATTERS**

The Council's Legal Advisor advised that there were no outstanding matters.

13 **REACHING A DECISION**

The Sub-Committee retired to consider its decision in private accompanied by the Democratic Services Officer and Legal Advisor on specific points of law.

14 **DECISION**

The Decision of the Panel was read out.

**The meeting closed at 2.45 pm**



**BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK**

**LICENSING COMMITTEE**

**Minutes from the Meeting of the Licensing Committee held on Wednesday, 23rd August, 2017 at 10.00 am in the Committee Suite, King's Court, Chapel Street, King's Lynn, PE30 1EX**

**PRESENT:** Councillor C J Crofts (Chairman)  
Councillors Mrs S Fraser and Miss S Sandell

**OFFICERS:**

Noel Doran – Legal Advisor  
John Gilbraith – Licensing Manager  
Rebecca Parker – Democratic Services Officer

1 **APOLOGIES FOR ABSENCE**

There were no apologies for absence.

2 **ITEMS OF URGENT BUSINESS**

There was no urgent business.

3 **DECLARATIONS OF INTERESTS**

There was no declarations of interest.

4 **TO CONSIDER AN APPLICATION FOR A REVIEW OF A PREMISES LICENCE FOR N JOY, NORFOLK STREET, KING'S LYNN**

The Chairman welcomed everyone to the meeting and declared that the Sub-Committee was sitting to consider a review application for N Joy, 120 Norfolk Street, King's Lynn. He introduced the Sub-Committee, the Borough Council officers and the legal Advisor and explained their roles.

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

The Responsible Authorities present, Jos Girling and Tony White from Norfolk Fire and Rescue and Anthony Drown and Jacki Pepper from the Borough Council's Non Domestic Rates team introduced themselves.

It was noted that the Licence Holder was not present at the Hearing, the Sub-Committee decided to proceed with the Hearing in his absence. The Licensing Manager explained that the Licence Holder

had been invited to attend the Hearing and had been sent a copy of the Agenda.

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

At the request of the Chairman, the Legal Advisor outlined the procedure which would be followed at the Hearing.

## 6 **REPORT OF THE LICENSING MANAGER**

The Licensing Manager presented his report to the Sub Committee. The Licensing Manager explained that at any stage, following the grant of a premises licence, a 'responsible authority' or 'other person' may apply to the licensing authority to review the premises licence because of matters arising at the premises in connection with any of the four licensing objectives. The Licensing Manager explained that Norfolk Constabulary had made an application to review the premises licence under the prevention of crime and disorder licensing objective. The Licensing Manager made reference to the following:

- The Review application from Norfolk Constabulary, which had been included in the Licensing Managers report.
- Norfolk Fire and Rescue Service and the Non Domestic Rates Section at the Borough Council had supported the review application, and copies of their representations were included in the Licensing Managers report.
- No representations had been received from 'other persons'.
- The Borough Council had advertised the review by notice at the premises, a notice at the Borough Council Offices and publication on the Council's website.
- A location map of the premises was included in the Licensing Managers report.
- The Sub-Committee would need to have regard to the King's Lynn and West Norfolk Borough Council's Licensing Policy and Statutory Guidance issued under the Licensing Act 2003.
- The options available to the Sub-Committee.
- Norfolk Police had requested that the Licence be revoked.

There were no questions to the Licensing Manager.

## 7 **THE APPLICANTS CASE - NORFOLK CONSTABULARY**

Chris Brooks from Norfolk Constabulary presented his case. He stated that the Police sought the revocation of the premises licence as there had been a number of disorder incidents and breaches of the Premises Licence. Chris Brooks provided a timeline of events which had been included in the review application and set out on page 25 of the Licensing Manager's report.

He explained that on 13<sup>th</sup> June 2017 the owner of the premises and bailiffs attended the premises and discovered a cannabis factory on the second floor of the premises. The premises licence holder had been arrested and had admitted the production of the drugs and explained how he had diverted electricity from the junction box to feed the supply to the cannabis factory.

Chris Brooks explained that several interventions had been carried out with the premises licence holder for breaches of the premises licence and warning letters had been sent.

Andy Owens explained that the Police had tried to work with the premises licence holder on several occasions, but after the discovery of the Cannabis factory it was felt that there was no other realistic option than to call for a review of the premises licence.

Andy Owens referred to the Home Office Guidance, which had been included in the Licensing Managers report, specifically paragraphs 11.24 to 11.27 which provided guidance on reviews arising in connection with crime.

In response to a question from the Licensing Manager, Chris Brooks explained that the premises licence holder would be prosecuted for the offences arising from his activities. The Licensing Manager explained that this was a completely separate issue and the Sub-Committee were not considering whether or not the licence holder was guilty of the criminal offences.

In response to a question from Councillor Mrs Fraser, Andy Owens confirmed that there was no evidence that drugs were being sold within the licensed premises, however there were over sixty plants and the licence holder had spent £3,000 to £4,000 on them, which was far in excess of personal consumption. A set of electronic scales were found at the premises and the plants must have been grown to be sold.

## 8 **THE RESPONSIBLE AUTHORITIES CASE - NORFOLK FIRE AND RESCUE**

Jos Girling from Norfolk Fire and Rescue presented her case. She explained that there had been a number of breaches at the property and on 24<sup>th</sup> November 2015 a prohibition notice was issued after Fire Safety Officers attended the premises and found people living in rooms on the first and second floors without adequate protection from fire.

Jos Girling provided a timeline of events, as set out in page 61 of the Licensing Managers Report which showed total disregard to the prohibition notice and the safety of persons sleeping at the premises

There were no questions to Norfolk Fire and Rescue Service.

9 **THE RESPONSIBLE AUTHORITIES CASE - BOROUGH COUNCIL  
NON DOMESTIC RATES TEAM**

Anthony Drown from the Non Domestic Rates Team at the Borough Council presented his case. He explained that there were extensive arrears for Non-Domestic Rates and Council Tax on the premises.

In response to a question from Councillor Fraser, the total liability for Non Domestic Rates and Council Tax were confirmed. It was explained that recovery options had not so far been successful.

10 **SUMMING UP - THE LICENSING MANAGER**

The Licensing Manager summed up his case. He reminded the Sub-Committee that Norfolk Constabulary had submitted the review application and Norfolk Fire and Rescue Service and the Borough Council had made representations. He reminded the Sub-Committee of the Borough Council's Statement of Licensing Policy and the Section 182 Guidance. He explained that the Police had provided information of incidents when the premises licence had been breached and this meant that activities at the time were unlicensed, which the licence holder could have been prosecuted for.

The Licensing Sub-Committee were requested to consider the application, and take such steps it considered appropriate for the promotion of the four licensing objectives. Steps available were:

- (a) To do nothing.
- (b) To modify the conditions of the premises licence (which included adding new conditions or any alteration or omission of an existing condition).
- (c) To exclude a licensable activity from the scope of the licence, for example to exclude the sale of alcohol.
- (d) To remove the Designates Premises Supervisor, for example, because they consider that the problems are the result of poor management.
- (e) To suspend the licence for a period not exceeding three months.
- (f) To revoke the licence.

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

11 **SUMMING UP - NORFOLK FIRE AND RESCUE**

Jos Girling reminded the Sub-Committee of the safety issues concerning the premises and the prohibition notice would remain in place until appropriate works had been carried out.

12      **SUMMING UP - BOROUGH COUNCIL NON DOMESTIC RATES**

The Non Domestic Rates Team confirmed that they had nothing further to add to their case.

13      **SUMMING UP - NORFOLK CONSTABULARY**

Chris Brooks referred to the evidence contained within the Agenda and presented to the Hearing and explained that this demonstrated that the licence holder should not continue to hold a licence. He reminded the Sub-Committee of the discovery of the Cannabis factory and explained that although there was no evidence that he was supplying drugs to the licensed premises there was evidence of electronic scales at the premises which he wouldn't need if it was a personal supply. There had also been reports of odour in the vicinity. He reminded the Sub-Committee that Norfolk Constabulary sought revocation of the premises licence.

14      **OUTSTANDING MATTERS**

The Legal Advisor stated that there were no outstanding matters.

15      **REACHING A DECISION**

The Sub-Committee retired to consider its decision in private, accompanied by the Democratic Services Office and the Legal Advisor for procedural or advisory support.

16      **DECISION**

**DETERMINATION**

The Sub-Committee only considered relevant representations in coming to its decision.

The Sub-Committee notes that the Norfolk Constabulary, as a Responsible Authority, has applied for the review of this premises licence on the basis that activities undertaken at the licensed premises seriously undermine the statutory objective of preventing crime and disorder and that the licence holder has demonstrated that he is unable to promote the crime and disorder objective. This application is supported by the Norfolk Fire and Rescue Service and the Borough Council's Business Rates Team.

The Sub-Committee notes that neither the licence holder nor any representative on his behalf appeared at the hearing or submitted any representations in response to this application.

On the basis of the information presented to it, the Sub-Committee is satisfied that the activities that were undertaken at the licensed premises undermine the statutory objective of preventing crime and disorder. In addition, the Sub-Committee considers that the activities undertaken at the premises and the way in which the premises were managed, resulting in regular licence breaches and ongoing regulatory breaches, undermine the statutory objectives of public safety and the prevention of public nuisance to the extent that the licence holder is clearly unsuitable to hold a premises licence.

### **DECISION**

The Sub-Committee revokes the Premises Licence for N Joy, 120 Norfolk Street, King's Lynn on the basis that it considers that activities undertaken at the licensed premises and the way in which the premises were managed undermine the primary statutory objective of preventing crime and disorder as well as the statutory objectives of public safety and the prevention of public nuisance.

### **RIGHT OF APPEAL**

There is a right of appeal against this decision to the Magistrates Court, available to both the Applicant and the persons making representations. An appeal must be commenced within 21 days beginning with the day on which notification of this decision is received. Independent legal advice may be sought from a solicitor or the Citizens Advice Bureau regarding this if consideration is being given to lodging an appeal.

**The meeting closed at 11.20 am**

**BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK**

**LICENSING COMMITTEE**

**Minutes from the Meeting of the Licensing Committee held on Tuesday,  
21st November, 2017 at 2.00 pm in the Council Chamber, Town Hall,  
Saturday Market Place, King's Lynn**

**PRESENT:** Councillors D Tyler (Chairman), M Hopkins and Mrs S Young.

**OFFICERS:**

Jo Furner – Legal Advisor  
John Gilbraith – Licensing Manager  
Marie Malt – Senior Licensing Enforcement Officer  
Rebecca Parker – Democratic Services Officer  
Ajay Patel – Trainee Solicitor

**1        APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**2        ITEMS OF URGENT BUSINESS**

There was no urgent business.

**3        DECLARATIONS OF INTERESTS**

There was no declarations of interest.

**4        TO CONSIDER AN APPLICATION FOR THE GRANT OF A  
PREMISES LICENCE FOR KING'S LYNN EXPRESS 103B HIGH  
STREET, KING'S LYNN**

The Chairman welcomed everyone to the meeting and declared that the Sub-Committee was sitting to consider an application for a premises licence in respect of King's Lynn Express, 103b High Street, King's Lynn. He introduced the Sub-Committee, the Borough Council officers and the legal Advisor and explained their roles.

The Applicant's representative, Mr Paul Byatt and the Applicant, Mr Hasan introduced themselves.

The Responsible Authorities present: Vicky Conlon from Norfolk Trading Standards and Chris Brooks from Norfolk Constabulary introduced themselves.

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

At the request of the Chairman, the Legal Advisor outlined the procedure which would be followed at the Hearing.

## 6 **REPORT OF THE LICENSING MANAGER**

The Licensing Manager presented his report to the Sub-Committee. The Licensing Manager explained that an application had been made under Section 17 of the Licensing Act 2003 for the sale of alcohol by retail. If the application was granted it would allow the sale of alcohol from Monday to Sunday, 8am to 11pm.

The Licensing Manager made reference to the following:

- The four Licensing Objectives.
- The Mandatory Conditions and Conditions consistent with the operating schedule.
- There had been two representations from the Responsible Authorities. Norfolk Trading Standards and the Police were objecting to the application under the prevention of crime and disorder Licensing Objective.
- There were no representations from 'other persons' to consider.
- The advertising of the application.
- The Borough Council's Statement of Licensing Policy and guidance issued under Section 182 of the Licensing Act 2003.

There were no questions to the Licensing Manager. However, before proceeding with the Hearing it was noted that some of the information which would be provided by the Applicant and the Responsible Authorities were subject to ongoing police investigations.

The Legal Advisor explained that it was likely that the information to be put forward at the Hearing could prejudice the investigation if it was open to the public. She explained that it was likely that confidential information would be referred to throughout the duration of the Hearing.

**RESOLVED:** That in accordance with Regulation 14(2) of the Licensing Act 2003 (Hearing Regulations) 2005, the press and public be excluded from the Hearing.

## 7 **THE APPLICANT'S CASE**

The Applicant's Representative presented his case. The Applicant and his representative responded to questions from all parties.

## 8 **RESPONSIBLE AUTHORITIES CASE**



Chris Brooks from Norfolk Constabulary presented his case. He explained that he would be relying on the evidence from Norfolk Trading Standards.

Vicky Conlon, from Norfolk Trading Standards presented her case. She referred to additional evidence which had been circulated to all parties in advance of the Hearing.

Norfolk Trading Standards called a witness to the Hearing. The Witness responded to questions from Norfolk Trading Standards and then left the Hearing.

Vicky Conlon responded to questions from all parties.

## 9 **SUMMING UP - LICENSING MANAGER**

The Licensing Manager summed up his case. He requested that the Sub-Committee consider his report and the representations put forward at the Hearing and dispose of the matter with a view to promoting the four Licensing Objectives. The options to the Panel were to:

- a) Grant the application under the terms and conditions applied;
- b) To grant the variation 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 their decision must be given as all parties had a right of appeal against that decision to the Magistrates Court.

## 10 **SUMMING UP - RESPONSIBLE AUTHORITIES**

The Responsible Authorities present summed up their case.

## 11 **SUMMING UP - APPLICANT**

The Applicant's representative summed up his case.

## 12 **OUTSTANDING MATTERS**

The Council's Legal Advisor stated that there were no outstanding matters to address.

## 13 **REACHING A DECISION**

The Sub-Committee retired to consider its decision in private, accompanied by the Democratic Services Officer and the Legal Advisor on specific points of law.

14      **DECISION**

The reasons for the Decision were read out.

The Sub-Committee refused the application.

**The meeting closed at 4.17 pm**

**BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK****LICENSING COMMITTEE**

**Minutes from the Meeting of the Licensing Committee held on  
Tuesday, 27th February, 2018 at 10.00 am in the Council Chamber, Town  
Hall, Saturday Market Place, King's Lynn**

**PRESENT:** Councillor C J Crofts (Chairman)  
Councillors Miss S Sandell and T Tilbrook

1 **APOLOGIES FOR ABSENCE**

There were no apologies for absence.

2 **ITEMS OF URGENT BUSINESS**

There was no urgent business.

3 **DECLARATIONS OF INTERESTS**

There was no declarations of interest.

4 **TO CONSIDER AN APPLICATION FOR A PREMISES LICENCE FOR  
THE BLACK HORSE INN, LYNN ROAD, CASTLE RISING**

The Chairman welcomed everyone to the meeting and declared that the Sub-Committee was sitting to consider an application for a premises licence in respect of The Black Horse Inn, Lynn Road, Castle Rising. He introduced the Sub-Committee, the Borough Council officers and the Trainee Solicitor and explained their roles. The Chairman also introduced the Legal Advisor who would be participating in the meeting by telephone.

The Chairman also invited the applicant's representative Mr Richard Taylor to introduce himself to the Panel. He confirmed that 15 minutes would be sufficient to present his case. Mr Taylor introduced Mr Martin Obey who was the Regional Manager for the Ei Group Plc.

The Chairman also invited Mr Richard Waite representing Mr & Mrs Lindley, occupiers of The Almshouses and Chairman of the Trustees of Trinity Hospital to introduce himself to the Panel. Mr Waite confirmed that 15 minutes would be sufficient to present his case.

a **Procedure which will be followed at the Hearing**

At the request of the Chairman, the Trainee Solicitor outlined the procedure which would be followed at the Hearing.

**b Report of the Senior Licensing Officer**

The Chairman invited the Senior Licensing Officer to present her report to the Sub-Committee. The Senior Licensing Officer explained that the applicant had made an application under Section 17 of the Act for the licensable activities of 'sale of alcohol by retail' and 'Late Night Refreshment', as set out in her report. 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 Senior Licensing Officer made reference to the following:

- The proposed application and that whilst Sections 10 and 11 of the application requested regulated entertainment, the applicant had withdrawn this from the application on 18 February 2018.
- The seven mandatory conditions.
- The proposed conditions which had been identified from the operating schedule to promote the licensing objectives:
  - (a) The DPS shall maintain a refusals/incidents register. That register will be made available to officers of the responsible authorities on request.
  - (b) There will be no speakers placed outside.
  - (c) Children will not be permitted to remain in the premises after 9.00pm unless it is for the purposes of completing a meal ordered prior to that time.
- There were no representations from the responsible authorities to consider.
- There were three representations from other persons to consider, which were attached to the report.
- The Sub-Committee would need to have regard to the Kings Lynn and West Norfolk Borough Council Licensing Policy and Statutory Guidance issued under the Licensing Act 2003.
- The Sub-Committee was informed that the premises licence previously held at the Black Horse was valid from August 2005 until it lapsed in July 2017. A copy of the former premises licence was attached to the report.

The Senior Licensing Officer responded to a question from the applicant's representative and confirmed that the licence had not been revoked but had lapsed. She also confirmed that the new application was identical to the previous one but the entertainment hours were now less.

There were no questions from the other persons on the report.

There were no questions from the Sub-Committee on the report.

## 5 **THE APPLICANT'S REPRESENTATIVE CASE**

The Chairman then invited the applicant's representative to present their case. He explained that the applicant was one of the largest pub owners in the country. He explained the intention was for the Black Horse to be a 'Sunday lunch' pub and would make its money on food.

The Black Horse was subject to a lease however the licence holder had gone into liquidation. It was the applicant's intention to replicate the licence.

The applicant's representative referred the Sub-Committee to page 49 of the agenda, which was a copy of the licence which had lapsed. He explained that the live and music and recorded music element had now been removed from the application.

There had been objections to the live music and recorded music and the applicant's representative explained that after speaking to the operator they withdrew the request for live music or recorded music as licensable activities, as outlined in the email on pages 41 and 42 of the agenda.

The applicant's agent referred the Committee to the last paragraph of that email which stated that the applicant was anxious to provide a premises that was a benefit to the local community rather than a burden.

It was also explained that it was the applicant's intention to spend money on the public house but the applicant would not commit to this until they knew that they had obtained a licence.

The applicant had offered conditions, which would reflect the way in which the public house would be run, ie. Challenge 21, a refusals register and staff training.

In relation to representations, the applicant's agent explained that there had been no representations from the responsible authorities. He also confirmed that there was no history of problems with the premises.

There were no questions from the Senior Licensing Officer to the applicant's representative.

There were no questions from the other persons.

There were no questions from Members of the Sub-Committee.

## 6 **THE OTHER PERSONS CASE**

The Chairman then invited the other person – Mr Richard Waite to present their case.

The other person explained that Castle Rising was a tranquil village. The village consisted of businesses and facilities – all of which were quiet in nature. He added that the public house had been recognised as the hub of the community which would serve food and be of general appeal. However the original application took it to another level with live music and extended hours. He added that whilst the applicant could take steps to reduce noise, it could not be removed completely for example cars coming and going from the car park.

The other person made reference to the Almshouses, where the residents were elderly and vulnerable given the location to the public house. He explained that he had been called out to the Almshouses on 2 or 3 occasions where a disturbance had taken place in the car park.

He stated that if the Sub-Committee were minded to approve the application then consideration should be given to avoiding extended hours, sound protection, noise limiters and to add any other appropriate conditions in line with the concerns which had been raised.

The other person responded to a question from the Senior Licensing Officer regarding the times that he had been called out to reassure the residents of the Almshouses. He explained that the disturbances had not been reported.

There were no questions from the applicant's representative.

The other person responded to questions from the Panel regarding whether residents felt that there was any crime and disorder in the area when the public house was operating. The other person explained that it was not crime and disorder just general nuisance with noise and people hanging around in the car park.

## 7 **SUMMING UP - THE SENIOR LICENSING OFFICER**

The Senior Licensing Officer summed up her case. She reminded the Panel that this was a new premises licence and that the Sub-Committee needed to focus on the four licensing objectives. She also reminded the Sub-Committee that there were mandatory conditions for the licence. She asked the Committee that if they were to impose additional conditions then they should follow the guidelines.

In relation to public nuisance, she referred to page 13 of the agenda and advised that there were other controls in place to deal with public nuisance if required.

She requested that the Sub-Committee considered the application and took such steps as it considered appropriate for the promotion of the licensing objectives. The steps were:

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

## 8 **SUMMING UP - THE APPLICANT'S REPRESENTATIVE**

The applicant's representative then summed up his case. He advised that the Sub-Committee needed to determine the application on real evidence and not guesswork. He added that there had not been any evidence of problems at the premises or crime and disorder and there had been no complaints from the Council's CSNN team, as detailed on page 43 of the agenda.

He added that notices would be displayed asking people to leave the premises quietly.

## 9 **SUMMING UP - OTHER PERSONS**

The other persons then summed up their case. He explained that the village and residents did want the pub back but felt that there should be some controls on disturbance. However some areas of concern were not within the applicant's control. He asked the Sub-Committee to add any suitable conditions that they felt would be appropriate.

## 10 **OUTSTANDING MATTERS**

The Council's Legal Advisor advised that the applicant's representative had offered possible conditions regarding notices, however this was already included on the operating scheduled as detailed on page 37 of the agenda, and therefore did not need to be added as a condition.

She had nothing further to add.

## 11 **REACHING A DECISION**

The Sub-Committee retired to consider its decision in private, accompanied by the Democratic Services Officer and the Trainee Solicitor, with the Legal Advisor on the telephone, on specific points of law and procedure.

## 12 **DECISION**

## **Findings**

The Sub-Committee is of the view that the applicant intends to run this premises in a responsible manner, not as a late night entertainment venue, but as a community hub and restaurant where customers can have an alcoholic beverage with a meal. The applicant intends for the premises to be a benefit to the local community. The Sub-Committee carefully considered the objections of those who made representations and accepts that these are genuine concerns concerning noise nuisance. Whilst not adding further conditions to the application, the Licensing Sub-Committee notes that the operating schedule states that notices will be displayed at the exits asking customers to leave quietly. The Licensing Sub-Committee urges that these signs should emphasise that customers, on leaving need to be considerate of local residents. The Committee would strongly urge the applicant to consider the surface of the car park to minimise noise from vehicles exiting the car park. Whilst this is not a condition, the Sub-Committee expects a responsible premise licence holder to give consideration to these comments. The Sub-Committee's decision must be based on evidence provided and particular weight should be given to those responsible authorities who have expertise in the relevant licensing objectives. In this case, there is no objection from the responsible authorities and the concerns of local residents relate to a small number of historical low level disturbances.

## **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 4 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. No additional conditions (to 1 and 2 below were considered necessary:

1. The mandatory conditions applicable under the Licensing Act 2003
2. The conditions consistent with the operating schedule (as detailed on page 11 and 37 of the report before the Sub-Committee).

## **Determination**

The Sub-Committee does grant the application.

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 meeting closed at 11.50 am**

**BOROUGH COUNCIL OF KING'S LYNN AND WEST NORFOLK**

**MEMBERS CODE OF GOOD PRACTICE FOR LICENSING**

**1. INTRODUCTION**

- 1.1 This Code has been prepared and adopted for the guidance of Councillors in their dealings with licensing matters.
- 1.2 The aim of this code is to ensure that, in the licensing process, there will be no grounds for suggesting that a licensing decision has been biased or otherwise not well founded. This document supplements the Members Code of Conduct.
- 1.3 This Code applies to all members of the Licensing Committee and Licensing and Appeals Board, substitutes and officers.
- 1.4 The process of arriving at decisions on licensing matters must be open and transparent and the involvement of both Officers and Members must be clearly understood. The main principles which Members should have clear regard for are: -
- Your overriding duty as a Councillor is to all residents of the Borough Council area and in relation to licensing issues to help ensure that the council's licensing policies and statutory objectives are achieved.
  - Your role as a member of the licensing authority is to make decisions openly, impartially, with sound judgement, and for justifiable reasons.
  - Whilst you may be strongly influenced by the views of others and of your party in particular it is your responsibility alone to decide what view to take on any question which councillors have to decide.
  - When acting in your capacity as a Councillor you must have regard to the Council's adopted Code of Conduct.
- 1.5 If you have any doubts regarding whether this code of conduct for members or officers applies to their particular circumstances then you should take advice at the earliest possible opportunity from the Monitoring Officer or from a member of her staff. Any such advice should be sought well before any licensing meeting takes place.

**2. RELATIONSHIP TO THE MEMBERS' CODE OF CONDUCT**

- 2.1 The Members' Code of Conduct sets out the standards of behaviour expected of Councillors and the requirements in relation to the declaration of interests in the Members Register of Interests and at meetings. Not only should impropriety be avoided but also any appearance or ground for suspicion of improper conduct. When considering any licensing matter you should have primary regard for the Code, and particularly the requirement to properly declare all interests.
- 2.2 If you do not follow and apply the code then you may put the Council at risk of proceedings challenging the legality of the decision made and yourself at risk of sanction if there has been a failure to comply with the adopted Members' Code of Conduct.

**3. DECLARATION OF INTERESTS UNDER THE MEMBERS' CODE OF CONDUCT**

When considering licensing matters Members may find that they need to;

- declare interests in accordance with the requirements of the adopted Code of Conduct

or

- indicate whether or not they may have come to a fixed view on an application prior to the meeting (i.e. pre-determination)

- 3.1 The existence and nature of any interest should be disclosed in accordance with this Code at any Licensing Committee or Licensing and Appeals Board and any informal meetings or discussions with officers and any other Members.
- 3.2 Members should preferably disclose their interest at the commencement of the meeting and not at the beginning of the discussion on that particular matter. Members receive papers for a licensing hearing prior to the hearing. Where Members read the papers and realise that they have an interest, Members should, where possible, contact Democratic Services so that a replacement Member can be found.
- 3.3 Members should notify the Monitoring Officer in writing of an interest and ensure that such notification should be no later than submission of that application and ensure that a proper record of the interest is noted at any meeting.
- 3.4 Where you have a Disclosable Pecuniary Interest (Your pecuniary interests (or those of your spouse/partner), are business interests; for example their employment, trade, profession, contracts, or any company with which you are associated and wider financial interests that you have for example trust funds, investments, and assets including land and property):

**Do not** participate or give the appearance of trying to participate in the making of any decision by the Licensing Authority.

**Do not** get involved with the processing of the application and direct any queries to the relevant officer.

**Do not** seek or accept preferential treatment or place yourself in such a position so as members of the public would think you are receiving preferential treatment because of your position as a Councillor. You may need to identify another local member who is prepared to represent local interests

**Do** note that there is a requirement to leave the room whilst the item is being discussed.

#### **4. PRINCIPLES FOR A FAIR HEARING**

The following general principles apply to the conduct of hearings by the Licensing Committee and Licensing and Appeals Board:

- (a) All parties have a right to a fair hearing
- (b) Each application shall be treated on its own merits
- (c) Decisions shall be lawful, proportionate, non-discriminatory, open and transparent
- (d) Decisions shall be made on the basis of the following considerations:
  - i. The merits of the application
  - ii. The promotion of the licensing objectives
  - iii. The relevant policies adopted by the Council
  - iv. Guidance issued from the Home Office or other Government bodies
  - v. The Human Rights Act

#### **5. PRE-DETERMINATION**

The allowance made for Councillors to be predisposed to a particular view is a practical recognition of:

- (a) The role played by party politics in local government and
- (b) The need for Councillors to inform constituents of at least an initial view on a matter as part of their public role
- (c) The structure of local government which ultimately requires the same Councillors to make decisions.

Section 25 of the Localism Act 2011 introduces provisions for dealing with allegations of bias or pre-determination or matters that otherwise raise an issue about the validity of a decision, where the decision maker(s) had or appeared to have a closed mind (to any extent) when making the decision.

Councillors can listen to views expressed by applicants, objectors and licence holders, but should try to ensure that they are acting in an even handed manner.

## **6. CONTACT WITH APPLICANTS, OBJECTORS AND LICENCE HOLDERS**

**Do** refer those who approach you for licensing, procedural or technical advice to officers.

**Do not** agree to any formal meeting with applicants, objectors and license holders or any other parties involved in the licensing process. Where you feel that a formal meeting would be useful in clarifying the issues, such presentation or discussion should be part of a structured arrangement organised by officers. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action and the record of the meeting is disclosed when the application is considered by the Committee.

## **7. LOBBYING OF MEMBERS**

Lobbying is a normal and perfectly proper part of the political process: those who may be affected by a licensing decision may seek to influence it through an approach to their elected ward Member or a Licensing Committee/Sub-Committee member. However, lobbying can, unless all parties concerned exercise care and common sense, lead to the impartiality and integrity of the Member being called into question.

Licensing Members should not attend private meetings with applicants or groups of objectors on their own. Such meetings, if considered helpful in order to clarify issues, should be arranged by or attended by relevant licensing officers so that those present at the meeting can be advised from the outset that the discussions will not bind the Council as licensing authority to any particular course of action and to ensure the meeting is properly recorded on the application file and disclosed when the matter is reported. The same principle applies to formal presentations which are sometimes requested by applicants particularly on major applications. Such presentations are a form of lobbying and whilst Licensing Members at such events may quite properly ask questions and seek clarification about the proposals, they should not express views or indicate how they are likely to vote when the matter comes before the Sub-committee.

**Do** remember that your overriding duty is to the whole community and not just the people in your own particular ward

**Do** explain to those lobbying or attempting to lobby you that whilst you can listen to what is being said it prejudices your impartiality and may affect your ability to participate in the Committee's decision making to express an intention to vote one way or another.

**Do not** accept any gifts or hospitality from any person or group involved in or affected by a proposal. Whilst a degree of hospitality may be unavoidable, members must ensure that such hospitality is of a minimum and its acceptance is declared as soon as is possible.

**Do** copy or pass on any lobbying correspondence you receive to the Executive Director at the earliest opportunity.

**Do** inform the Monitoring Officer where you feel that you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality) that may require an investigation.

**Do** note that you will not have pre-determined a matter or breached this Code if:

- You have listened or have received views from residents or other interested parties;
  - You have made comments to residents, interested parties, other Members or appropriate officers, provided the comments have not amounted to a pre-determination of the issue and you have made it clear that you are keeping an open mind;
  - You have sought information through appropriate channels;
- or
- You are being a vehicle for the expression of opinion or speaking at the meeting as a Ward/Local Member, provided that you explain your actions at the beginning of the meeting or item and make it clear that, having expressed the opinion or ward/local view.

## **8. LOBBYING BY MEMBERS**

It is recognised that Members who represent a ward affected by a particular application are in a difficult position particularly if it is a controversial application around which a lot of lobbying takes place. There is a balance to be struck between the duties to be an active ward representative and the overriding duty as a Councillor to the whole community. In these circumstances;

Being a ward Member does not in itself constitute an interest in an application or create a risk of apparent bias. Providing the ward Member does not have a disclosable pecuniary interest or prejudicial interest in applications or providing there is nothing to indicate any risk of bias or predetermination, a ward Member's local knowledge may in fact give an additional insight to an application and its implications on the licensing objectives. Ward members may use their local knowledge to ask relevant questions and clarify facts.

## **9. SITE VISITS BY MEMBERS**

Sites inspections are occasionally helpful in reaching a decision on issues where site circumstances are clearly fundamental to that decision as outlined below. Any site visit should be with the Sub-Committee/Panel and include officers, applicant, applicant's representative, objectors, and any other person present at the hearing.

**Do** ensure that you treat the site visit only as an opportunity of seeking information and to observe the site.

**Do** ask the officers questions and seek clarification from them on matters, which are relevant to the site inspection, but this is not the time for a debate.

**Do not** hear representations from any other party at the site visit.

**Do not** express opinions or views to anyone at a site visit.

**Do not** enter a site other than on an official site visit, even if it is in response to an invitation, as this may give the impression of bias.

**Do** stay with the rest of the Members officers and other parties during a site visit –it ensures that all members and persons effected by a decision see, hear and are able to comment on the site visit.

## **10. CONDUCT AT HEARINGS**

10.1 Members of the Licensing Committee and Licensing and Appeals Board should not communicate directly with the applicant, licence holder, interested party or responsible authority either immediately prior to the hearing, during the hearing or after the hearing, other than publicly through the Chairman.

10.2 Officers at the Hearing should refrain from engaging with the other parties at the Hearing, other than to offer procedural or housekeeping advice.

10.3 Questioning of those present is to clarify arguments and views and care should be taken not to express a view at this stage of the hearing, nor to intimidate speakers.

10.4 Any material considered at the hearing, that does not comprise any material supplied by the Licensing Authority must be tabled through the Chairman and the nature of any such material must be clear to all present at the hearing and available for inspection.

10.5 All questions, comments and requests during the hearing must be directed through the Chairman.

## **11 MEMBERS RELATIONSHIP WITH OFFICERS**

**Do** recognise and respect that officers in the processing and determining of licensing matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct. You should therefore appreciate that officer' views, opinions and recommendations will be based on their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions and decisions of a committee or its members.

**Do** consider the Council's protocol for member/officer relationships, which governs the working relationship you have with officers. This is a relationship based on mutual trust and courtesy, and all meetings should be guided by this principle.

## **12. DECISION MAKING BY MEMBERS**

**Do** come to a meeting with an open mind on a matter and do demonstrate that you are open-minded.

**Do** make decisions in accordance with the Council's Licensing Policy and Statutory Objectives and guidance.

**Do** come to your decision only after due and proper consideration of all of the information reasonably required upon which to base a decision. If you feel that there is insufficient time to consider new information or there is insufficient information before you then you should request that further information and, if necessary, defer the application.

**Do** not ~~vote~~ or take part in a discussion at a meeting or make a decision unless you have been present for the entire meeting or for the whole of the matter in question. If a member needs to leave a meeting for a short period, such as for a comfort break, that member should seek an adjournment.

**Do** ensure that the reasons you give for a decision are your reasons. You cannot ask an officer to give the reasons for you. An officer may assist in the drafting of your reasons.

**Do** not engage in social media or electronic communications, passing or receiving notes during the meeting.

### **13. SANCTIONS**

A failure to adhere to the Code gives rise to potential consequences to individual Members. Any allegation of a serious breach of this Code should be made in writing to the Monitoring Officer.