

BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK

LICENSING COMMITTEE

**Minutes from the Meeting of the Licensing Committee held on Thursday,
13th June, 2019 at 11.30 am in the Card Room - Town Hall, Saturday Market
Place, King's Lynn PE30 5DQ**

PRESENT: Councillors Miss S Sandell (Chairman), L Bambridge and D Whitby

OFFICERS:

Jake Currier – Legal Advisor
Octavia Holman – Legal Advisor
Marie Malt – Senior Licensing Officer
Rebecca Parker – Democratic Services Officer
Jo Riches - Licensing Officer

OTHER COUNCILLORS IN ATTENDANCE: Councillors Holmes, Howman, Hudson and Morley.

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
MRH GAYWOOD, 1-5 LYNN ROAD, KING'S LYNN**

The Chairman welcomed everyone to the Hearing and declared that the Sub-Committee was sitting to consider an application for a premises licence in respect of MRH Gaywood, 1-5 Lynn Road, King's Lynn. She introduced the Sub-Committee, the Borough Council officers and the Legal Advisors and explained their roles.

Those present were advised that some new Members of the Licensing Committee had attended the Sub-Committee Hearing to observe for training purposes. The Members would take no part in the proceedings.

Robert Botkai and Simon Field, present on behalf of the applicant, introduced themselves.

Mr and Mrs Ridley introduced themselves.

All parties confirmed that fifteen 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 OFFICER**

At the request of the Chairman, the Senior Licensing Officer presented 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 for consumption off the premises and the provision of late night refreshments.

The Senior Licensing Officer informed the Sub-Committee of the following:

- The four Licensing Objectives.
- The operating hours applied for.
- Mandatory Conditions
- Conditions consistent with the operating schedule.
- Conditions put forward by the Applicant
- Notice of the application had been displayed on the premises and in a local newspaper.
- Plan of the premises and map showing the location of the 'other persons'.
- Relevant extracts from the Councils Licensing Policy
- Relevant extracts from the Section 182 Guidance

The Sub-Committee was informed that no representations had been received from the Responsible Authorities. One representation had been received from 'other persons' which had been included in the report.

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

The Chairman invited questions to the Senior Licensing Officer from all parties. Robert Botkai referred to Section 182 guidance which had been contained within the report and referred to paragraph 10.15 of the

guidance which had not been included in the Senior Licensing Officers report which stated that “Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.”

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THE APPLICANT'S CASE

At the request of the Chairman, Robert Botkai, on behalf of the applicant presented his case.

He thanked the Senior Licensing Officer for making reference to the relevant sections of the Section 182 Guidance and Council's Licensing Policy.

Robert Botkai explained that the petrol garage was currently open 24hrs and a window hatch was often used overnight. He explained that the area was quiet at night time.

The Sub-Committee was informed that Malthurst Limited was currently carrying out a programme of applications to licence their premises and jointly with Motorfield Group over 550 of their premises were now licensed. He explained that the company also had experience in dealing with any issues quickly.

Robert Botkai reminded the Sub-Committee that no representations had been received from any of the Responsible Authorities.

The Sub-Committee were also referred to paragraph 5.3 of the Borough Council's Statement of Licensing Policy which stated that “with regard to shops, stores and supermarkets, it is the policy of the Borough Council that such premises should be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are very good reasons for restricting those hours.” Robert Botkai explained that if the Sub-Committee were minded to refuse the application, they would need to provide evidence that the granting of the licence would undermine the four Licensing objectives.

It was his understanding that the ‘other persons’ did not object to the provision of late night refreshment, nor to the sale of alcohol, they just wanted to see the hours restricted. Robert Botkai explained that the provision of late night refreshment would involve the sale of hot drinks.

Robert Botkai explained that some of the other premises which he had been involved in getting licensed had also gone to Hearing. The main reason that residents had objected to the applications was because of residents fear of what could happen once the licence had granted,

however in reality their fears had not materialised. He also stated that there was no evidence of antisocial behaviour or other issues within the vicinity of the premises at the moment.

The Sub-Committee was informed that any residents with concerns would be provided with contact details for the Area Manager and were encouraged to contact them if they had any issues. Robert Botkai explained that there were over 500 licensed premises within the company and he was only aware of problems with one premises, and in this instance swift action had been taken to remedy the problem by working with the local Licensing Authority and temporarily suspending the licence.

Robert Botkai stated that the area was quiet at the moment and he did not expect this to change because of alcohol off sales. He requested that the Sub-Committee give regard to the Council's Statement of Licensing Policy and Section 182 Guidance and grant the application as applied for.

He also referred to the conditions that the applicant had put forward.

The Chairman invited questions from all parties.

The Senior Licensing Officer asked if all sales overnight were conducted through the hatch. It was explained that it was staff discretion as to whether to use the hatch, however if the Sub-Committee were minded to they could add a condition to the licence to require all sales between 11pm and 5am to be carried out through the hatch.

Councillor Bambridge asked how any noise issues would be dealt with. Robert Botkai explained that there was no evidence that noise was currently an issue. He explained that the purchase of alcohol would be for off sales only. There was signage at the premises to say smoking and the use of mobile phones was prohibited. Staff did have access to a loud speaker and would ring the police if there were serious issues.

Councillor Whitby asked if there was any signage regarding the consumption of alcohol. It was explained that there were some in the store and the location of the signage could be looked at so that it was visible when being served at the window hatch. Robert Botkai suggested that a notice could be put up asking customers to respect neighbours and leave quietly.

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THE OTHER PERSONS CASE

At the request of the Chairman, Mr and Mrs Ridley presented their case. Mr Ridley explained that they objected to the 24 hour sale of alcohol under the prevention of crime and disorder and public nuisance

licensing objectives. He explained that they had no objection to the selling of alcohol, but it was not necessary for it to be sold 24 hours.

Mr and Mrs Ridley feared that people returning from a night out in the town centre would stop at the premises to purchase alcohol. They also had concerns about noise, aggressive behaviour and vandalism on the forecourt, to which their bedroom windows and front door faced.

Mr and Mrs Ridley stated that the granting of the licence would encourage antisocial behaviour which would be detrimental to their wellbeing and quality of life.

8 am to 11pm was suggested by Mr and Mrs Ridley as more appropriate times for selling of alcohol at the premises.

The Chairman invited questions from all parties.

The Chairman asked if the area was quiet at the moment and if there had been any incidents. Mrs Ridley commented that she had found a sleeping bag against a wall recently. She was concerned that the ability to purchase alcohol 24 hours would attract people with drinking problems, especially if everywhere else was shut. She also commented that Tesco's was open until midnight and often people congregated in the vicinity to drink. Mrs Ridley referred to Mr Botkai's experience in that there had not been problems with other petrol stations and Mrs Ridley commented that this could be because they were not surrounded by residential properties.

Mrs Ridley commented that their property was right on the forecourt so people could congregate round their car and in front of their door until early hours of the morning.

The Senior Licensing Officer referred to the voluntary condition suggested by the applicant in that all sales between the hours of 11pm and 5am would be carried out through the window hatch and she asked Mr and Mrs Ridley if this would alleviate any of their concerns. Mrs Ridley stated that it would make no difference.

SUMMING UP - LICENSING OFFICER

The Senior Licensing Officer summed up her case. She reminded the Panel that this was an application for a new premises licence and that the Sub-Committee needed to focus on the four licensing objectives when determining the application.

She referred to the mandatory conditions, conditions consistent with the operating schedule and the Section 182 Guidance.

The Senior Licensing Officer requested that the Sub-Committee consider the written information and the information put forward at the Hearing and determine the application by using one of the methods as set out in her report. She reminded the Panel that full reasons for their decision must be given as there was provision for all parties to appeal to the Magistrates Court against the decision.

10 **SUMMING UP - OTHER PERSONS**

Mr and Mrs Ridley stated that they had nothing further to add.

11 **SUMMING UP - APPLICANT**

Mr Botkai summed up his case. He referred to the hours that Mr and Mrs Ridley considered suitable for the sale of alcohol. He also explained that an additional condition, to ensure the entrance door to the shop was closed to customers between 11pm and 5am and any sales between these times will be made through the payment window, would be acceptable.

Mr Botkai also explained that Mr and Mrs Ridley, and any other neighbouring residents with concerns, could be provided with contact details for the Area Manager should any issues arise.

Mr Botkai stated that there was no reported antisocial behaviour in the area at the moment and should the Sub-Committee be minded to refuse the application, they would need to provide evidence that the granting of the licence would undermine the licensing objectives. He reminded those present that there had not been any objections from any of the Responsible Authorities.

Mr Botkai requested that the Sub-Committee grant the application as applied for.

12 **OUTSTANDING MATTERS**

The Legal Advisor stated that there was no outstanding matters.

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 and procedure.

14 **DECISION**

The Decision of the Sub-Committee was read out:

FINDINGS

The Panel considered the evidence in the report, as well as the written and oral evidence of all parties put forward at the Hearing. The Panel is mindful of the objections made against the granting of a 24 hour premises licence, particularly the concerns about noise and individuals congregating at early hours of the morning.

The Panel must have consideration of the Council's licensing policy and specifically paragraph 5.3, which states that premises should be free to sell alcohol during their opening hours unless there is good reason to the contrary. Although the Panel consider the objection put forward, the Panel are conscious of the absence of objections from any Responsible Authorities that were notified of the application, such as the Police etc.

Equally, the Panel consider that the lack of any previous or ongoing issues at the premises, as well as the Applicant's proposed procedures to combat any nuisance is of significance in the determination of this application. Accordingly, the Panel have considered the licensing objectives, particularly the possibility of any crime and disorder arising from the granting of a licence, and consider that based on the circumstances and evidence presented before them, the licence should be granted. However, this licence will be subject to certain conditions as specified in the Operating Schedule and those stated below:

Conditions:

1. The entrance door is to be closed to customers between the hours of 11pm and 5am. Any sales made between these times shall be made through the night payment window.
2. Signage shall be affixed next to or around the night payment window stating that customers must leave quietly and respect the neighbours of surrounding properties.

DETERMINATION

The Panel having due consideration to the evidence provided, hereby determines that the Applicant should be granted a licence subject to the conditions as described above.

The meeting closed at 12.58 pm