

BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK

LICENSING COMMITTEE

Minutes from the Meeting of the Licensing Committee held on Thursday, 13th June, 2024 at 10.00 am in the Council Chamber, Town Hall, Saturday Market Place, King's Lynn PE30 5DQ

PRESENT: Councillors Bartrum (Chair), Bhondi and Parish.

OFFICERS:

Marie Malt – Licensing Manager

James Arrandale – Legal Advisor

Rebecca Parker – Senior Democratic Services Officer

OBSERVING: Councillors Beales and Moriarty and Amy Pearce (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 A PREMISES LICENCE**

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The Chair welcomed everyone to the meeting and declared that the Sub-Committee was sitting to consider an application for a premises licence for The Paradise Shisha Bar, 15-19 Tower Street, King's Lynn. The Chair introduced the Sub-Committee, the Borough Council officers and the Legal Advisor and explained their roles.

The Responsible Authority, Applicant and Other persons all introduced themselves.

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

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

6 **REPORT OF THE LICENSING OFFICER**

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At the request of the Chair, the Licensing Officer presented the report as included in the Agenda and highlighted the additional proposed conditions as agreed with the Applicant and Responsible Authorities, the use of the outside area after 10pm for non-licensable activity, and that there was a current licence in place for the same address for Lynn Smokehouse and Bar which had been considered by the Sub-Committee in April 2012 and had additional conditions. A copy of the previous application was included in the Agenda. It was noted that the existing licence covered the whole of the premises and this application was for part of the premises as highlighted in the plan included in the Agenda and displayed on the screen at the Hearing.

The Licensing Officer requested that the Sub-Committee consider the application and representations put forward at the Hearing and dispose of the matter by using one of the methods as set out in the report.

There were no questions to the Licensing Officer.

7 **THE APPLICANT'S CASE**

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The Applicant and his representative presented their case and explained that they were trying to bring a new offer and atmosphere to the town centre. They explained that they were willing to work with the public, ensure that the area was kept safe and comply with whatever was required. It was explained that door security would be used going forward and at the moment door security was being used as patrons were required to bring their own alcohol.

The Applicant and his representative explained that they had applied for the licence, as although the premises already had a licence, the licence holder did not want to exchange it, so they had applied for a new licence for part of the premises.

The Licensing Officer asked what the Applicant meant by complying with whatever was needed, and the Applicant explained that they had been working with the Council on noise levels etc.

The Licensing Officer referred to a previous conversation with the Applicant about moving to Norfolk Street and the Applicant stated that

if there was no ability to play music at the current premises and create a relaxing atmosphere, they would look at other options.

The Licensing Officer referred to incidents when music had been played at the premises and complaints received. The Applicant stated that this related to a Private Party and speakers were being tested. The Licensing Officer stated that she was aware that tickets were available for this event and the Applicant stated that it was a Private Party.

Mr Pease, on behalf of the Responsible Authority referred to the 'Russian Night' held on 4th May, which the Applicant had stated was a private party, but he was aware that a private party had been held on 11th May as well and stated that each time the Applicant stated that this wouldn't happen again, but it had.

The Applicant explained that only one party had been held and once a complaint had been received, they had stopped playing music. The other event had background music only. The Applicant also stated that he had worked with the Council on the volume levels and no complaints had been received since.

Mr Pease explained that he was aware of three occasions when there had been disruption; 4th, 11th and 17th May and each time the Applicant had stated that it wouldn't happen again.

The Applicant stated that the morning after the Russian Night he had realised that some windows had accidentally been left open.

Mr Pease stated that the Applicant had provided different answers to the events held at the Hearing today compared to those as set out in the report.

Mr Sevha stated that he refused use of his licence to the Applicant. The Chair explained that Mr Sevha would be provided the opportunity to make his case at the appropriate time in the Hearing.

Mrs Carnell asked the Applicant if he had a DBS Certificate and if there would be children on the premises. The Applicant stated that there would be no small children on the premises.

In response to a question from Councillor Parish, the Applicant stated that there could be a maximum of 80 guests per night (spread across the evening, not at any one time), but usually there were around 35, spread across the evening, on a Friday and Saturday night.

In response to a further question from Councillor Parish, the Applicant stated that the premises had air conditioning and ventilation.

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Mr Pease, on behalf of the Borough Council presented the Responsible Authorities case. He explained that there had been three loud events held on the premises, with one being advertised on social media as a Russian Night.

He explained that officers from the Borough Council's Community Safety and Neighbourhood Nuisance Team had attended the premises on 11th May and could hear loud music, likely at nuisance level, outside the area and recordings had been made. The Applicant had apologised for this and stated it wouldn't happen again, but on 17th May loud music was being played at an intrusive level again. Officers spoke to the Applicant again on 17th May and the music was turned down.

Mr Pease stated that although the Applicant had given assurances that disruption would not happen again, he was concerned that this wouldn't be followed through due to the three events recently held at the premises.

Mr Heval asked Mr Pease about a child on the premises. Mr Pease explained that he had witnessed a child on the premises and the Applicant had stated that it was his son, who was there for a short period of time waiting for a lift home.

9

OTHER PERSONS CASE

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Mr Heval

Mr Heval presented his case and referred to the fire exits on the first floor of the premises, the difficulties in splitting the premises into two sections and that the back garden was the only area that should be used for Shisha.

Mr Heval stated that he had been threatened and blackmailed by the Applicant and had seen the Applicant sell alcohol without permission.

Mr Heval referred to a gas pipe in the garden, which he felt was unsafe if Shisha was being smoked outside and he had been so stressed about the Insurance coverage of the premises that he had been unable to sleep and had been to see a solicitor. He also stated that the structure in the garden was unstable and he was worried that it could cause injury.

Mr Heval stated that there was inadequate ventilation at the premises. There was air conditioning, but no air circulation upstairs and if the upstairs windows were open they acted like an amplifier for music.

Mr Heval stated that he would not allow the Applicant to use his DPS Licence and the Applicant did not have a Personal Licence. He explained that the Applicant had not asked his permission to use the premises even though he owned half of the building. He also stated that he was getting invoices from contractors and that the Applicant had no public liability insurance, no electric safety insurance, the building was unsuitable and that there had been children on the premises.

The Licensing Officer asked Mr Heval if his main concern was safety and fire issues and Mr Heval stated that he was unsure if the building was properly insured and there was no gas or electric certificate in place.

The Licensing Officer referred to the civil matter relating to ownership of the building and Mr Heval stated that he had been threatened and blackmailed and had been working with a solicitor. He stated that he had tried to report the crime to the Police, but did not have a crime number. He stated that his Solicitor had advised him not to allow the Applicant use of his licence.

Councillor Parish asked Mr Heval what his original ambition for the premises was. He stated that he wanted it to be a family restaurant.

Councillor Parish asked Mr Heval about the condition of the building. Mr Heval referred to the structure in the garden and he felt that it was unstable.

Councillor Bhondi asked about the use of the upstairs for playing music. Mr Heval stated that it was not appropriate as there was no ventilation and when windows were opened the noise leaked out. There was no sound proofing at the premises.

Mr Freitas

Mr Freitas presented his case and stated that he couldn't sleep when there was music playing at night and his main concern was public nuisance as set out in his representation which had been included in the Agenda.

In response to a question from Councillor Bhondi, Mr Freitas stated that he could not sleep when music was being played and that the premises needed to be sound proofed.

Mrs Howe

Mrs Howe read out a letter from Mr Weedon which outlined how he had been subjected to mental stress and noise pollution. It stated that the area was predominately residential and that if the licence was granted the Council should enforce that the windows upstairs were triple glazed

and the building was sound proofed by installing a double door entrance to stop noise leakage. Conditions should also be imposed to ensure that no smokers or noise were outside the front of the property and that patrons did not congregate on the street. The letter from Mr Weedon stated that the Applicant was untrustworthy and had already broken the law.

Mrs Howe then presented her case and stated that she had serious concerns about the application as she felt that the Applicant had so far had complete disregard for the licensing objectives. She referred to the screening of live sport and explained that this could cause disruption during the day to retailers and residents. She reminded the Sub-Committee that the premises was located within a Conservation Area. She felt that the Applicant had claimed they would be responsible, but had previously disrespected guidance. Mrs Howe was also concerned about public safety, especially if the relevant insurance and safety certificates were not in place. She also stated that the structure in the garden was attached to her property which was concerning.

The Applicants noted that Mrs Howe had obtained a previous licence on the premises and they asked Mrs Howe why she had applied for that licence to allow alcohol until 1am. Mrs Howe said her licence was so that patrons could have the odd glass of wine with a meal and she mainly shut at 5pm. She stated that she had applied for 1am for possible future opportunities, but she would be responsible.

Councillor Parish asked Mrs Howe about her business and she explained that it was a restaurant/café.

Councillor Parish asked Mrs Howe how her quality of life would be affected should the application be granted and she stated that it would deteriorate.

Councillor Bhondi asked Mrs Howe about her experience of living next door to the premises and she stated that there had been very loud music, most of the business took place in the garden and there were signs at the front of the premises directing patrons to the rear garden. She referred to a facebook post which said 'follow the music to the back'.

The Licensing Officer referred to the comments made about showing live sports events and confirmed that this was not a licensable activity. She also referred to activity in the garden after 10pm and stated that restrictions could only be imposed on licensable activity. Shisha was not a licensable activity.

Mrs Carnell

Mrs Carnell stated that she was representing herself and residents from the Bridge Street Conservation Area. She explained that she

lived in a Listed Building and there were many independent traders in the area. She stated that this area gets the run through from people leaving the night time economy in King's Lynn she commented that windows had been broken and cars had been damaged in the area.

Mrs Carnell commented that this area needed be kept free from activity in the night time and Norfolk Street was a more appropriate area for this sort of offer. Mrs Carnell referred to the structure in the garden and how it was not appropriate for a Conservation Area.

10 **SUMMING UP - LICENSING OFFICER**

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The Licensing Officer summed up the case and reminded the Sub-Committee that they should consider all the information included in the Agenda and put forward at the Hearing today and dispose of the matter using one of the methods as set out in the report.

11 **SUMMING UP - RESPONSIBLE AUTHORITY**

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Mr Pease summed up the Responsible Authority's case and stated that since the application had been made there had been several events at the premises which had caused public nuisance, despite repeated assurances from the Applicant that they wouldn't happen again.

12 **SUMMING UP - THE APPLICANT**

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The Applicant summed up their case and stated that they would work with the Police, have SIA accredited security on the door and there were lots of bars already in the area that did not have security on the door.

13 **SUMMING UP - OTHER PERSONS**

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Mr Heval summed up his case and stated that the Applicant had no regard to the Law and could not be trusted, the venue was unsuitable for music and he was not sure if there was a system in place to verify the age of patrons and that the structure in the garden should not be touching other properties.

The other interested parties had nothing further to add.

14 **OUTSTANDING MATTERS**

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The Legal Advisor advised that there were no outstanding matters.

15 **DECISION NOTICE**

The Chair explained that the Sub-Committee would retire to make their decision in private, accompanied by the Senior Democratic Services Officer for administrative purposes and the Legal Advisor for specific points of law and procedure.

All parties were then called back into the room and the decision of the Sub-Committee was read out. A copy of the decision notice is attached.

16 **DECISION NOTICE**

The meeting closed at 12.48 pm

LICENSING SUB-COMMITTEE**DETERMINATION NOTICE**

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

APPLICATION

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

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

HEARING

On 13th June 2024, a hearing was held to consider the application for the premises licence. The Sub-Committee determined the application with a view to promoting the four licensing objectives. It considered the application on its own merits. In reaching its determination, the Sub-Committee had regard to the following matters:

- The relevant parts of the written and oral evidence before them;
- The Kings Lynn and West Norfolk Borough Council Licensing Policy;
- Statutory Guidance issued under the Licensing Act 2003

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

- The Licensing Officer
- The Responsible Authority
- The Applicant

- Interested Parties

SUMMARY OF EVIDENCE

Licensing Officer

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

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

There were no questions to the Licensing Officer.

Applicants

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

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

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

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

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

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

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

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

Responsible Authority

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

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

The Panel had no questions for the Responsible Authority.

Mr Sevhat

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

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

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

There were no questions from the Responsible Authority.

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

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

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

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

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

Mr Freitas

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

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

Mrs Howe

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

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

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

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

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

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

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

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

Mrs Carnell

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

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

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

Summing Up

The parties summed up.

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

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

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

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

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

FINDINGS AND DETERMINATION

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

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

The Sub Committee therefore determined to reject the application.

RIGHT OF APPEAL

There is a right of appeal against this decision to the Magistrates’ Court. An appeal must be commenced within 21 days beginning with the day on which you receive notification of the decision. You may wish to seek independent legal advice from a solicitor or the Citizens Advice Bureau regarding this.

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

Date: 13th June 2024