

# Borough Council of King's Lynn & West Norfolk

## Report to Licensing Sub-Committee under the Licensing Act 2003

**Date of Hearing: 6<sup>th</sup> December 2024**

### **Application for a New Premises Licence -**

Dial House Café, 12 Railway Road, Downham Market, Norfolk, PE38 9EB

**Applicant** – Mrs Yosita Nongna

### **Introduction**

1. A premises licence is required under the Licensing Act 2003 (the 'Act') for the sale of alcohol, regulated entertainment or for the provision of late night refreshment (i.e. the supply of hot food and drink between 11pm and 5am). The four licensing objectives to be considered when determining the application, and relevant representations, are:

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

### **The Application**

2. Mrs Yosita Nongna has made an application for a new premises licence in respect of Dial House Café. A copy of the application is attached at Appendix 1 and if granted would allow the premises to operate the following licensable activities:

<u>Licensable Activity</u>	<u>Days</u>	<u>Times</u>
<b>Sale of alcohol</b> On the premises	Monday to Sunday	12 Noon until 4pm

### **Mandatory Conditions**

3. The Act provides for the following seven mandatory conditions to be attached to all premises licences authorising the sale of alcohol for consumption on the premises: -

- (a) Under Section 19(2) of the Licensing Act 2003, no supply of alcohol shall be made under this premises licence at a time when there is no designated premises supervisor in respect of the premises licence, or at a time when the designated premises supervisor does not hold a personal licence, or his personal licence is suspended.
- (b) Under Section 19(3) of the Licensing Act 2003 every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

- (c) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:
- I. games or other activities which require or encourage, or are designed to require or encourage, individuals to drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or drink as much alcohol as possible (whether within a time limit or otherwise);
  - II. provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - III. provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - IV. selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - V. dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- (d) The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- (e) The premises licence holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either a holographic mark, or an ultraviolet feature.
- (f) The responsible person must ensure that where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:

- I. beer or cider: ½ pint;
- II. gin, rum, vodka or whisky: 25ml or 35ml; and
- III. still wine in a glass: 125ml;

These measures must be displayed in a menu, price list or other printed material which is available to customers on the premises and if a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

- (g) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price. For the purposes of this condition 'duty' is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; 'permitted price' is the price found by applying the formula -  $P = D + (D \times V)$  where; P is the permitted price; D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol; and V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol. A 'relevant person' means the holder of the premises licence, the designated premises supervisor (if any) in respect of such a licence, or the personal licence holder who makes or authorises a supply of alcohol under such a licence. 'Value added tax' means value added tax charged in accordance with the Value Added Tax Act 1994.

The permitted price must be rounded up to the nearest penny. A change to the permitted price which would apply as a result of a change to the rate of duty or VAT charged in relation to alcohol would not apply until the expiry of the period of 14 days beginning on the day on which the change in the rate of duty or VAT takes effect.

#### **Conditions Consistent with the Operating Schedule (Proposed Conditions)**

4. The following conditions have been identified from the operating schedule
- (a) All staff must receive regular training in the challenge 25 age verification scheme and records of such must be kept on the premises and made available to authorised officers upon request. Challenge 25 signage must also be displayed at prominent positions within the premises.
  - (b) A CCTV system shall be maintained at the premises covering all public areas which is capable of recording images for a continuous period of at least 28 days. Images must be capable of being downloaded upon reasonable request from representatives of the Police or the Licensing Authority. All staff on duty at the premises must be trained in the use of the system and be able to comply with any such request. The system will be maintained in good working order at all times.
  - (c) Alcohol must only be sold for consumption on the premises in conjunction with a food order.

## **Representation from Responsible Authorities**

*Section 13(4) of the Act defines the 'Responsible Authorities' as the statutory bodies that must be sent copies of an application. Representations made must relate to the licensing objectives.*

5. There are no representations from any of the 'responsible authorities' to consider. Namely:

Norfolk Constabulary; Norfolk Fire Service; Norfolk Trading Standards; Norfolk Safeguarding Children's Board; Public Health; Community Safety & Neighbourhood Nuisance (BCKLWN) Planning (BCKLWN); Environmental Health (BCKLWN); Licensing Authority (BCKLWN) and Home Office (Alcohol Team).

## **Representations from 'Other Persons'**

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

6. There is one representation from 'other persons' to consider, a copy of which is attached to this report at Appendix 2.

## **Notices**

7. The applicant is responsible for advertising the application by way of a notice in a specified form at the premises for not less than 28 consecutive days and in a local newspaper on at least one occasion. The Public Notice appeared in the Lynn News on Friday 1<sup>st</sup> November 2024 and should have been displayed on the premises up to and including the 25<sup>th</sup> November 2024.

8. In accordance with the Licensing Act (Hearings) Regulations a notice of the application was also published on the Borough Council's website for the duration of the consultation period.

## **Plans**

9. A plan showing the location of the premises, and the location of the nearby objector, is attached to this report as Appendix 3.

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

10. The current Statement of Licensing Policy under the Act was approved by Full Council on the 14<sup>th</sup> January 2021. The following extracts may be relevant to this application and assist the Sub-Committee:

### **3.0 Fundamental principles**

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

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

3.2 Nothing in this 'Statement of Policy' will:

- 3.2.1 undermine the right of any individual to apply under the terms of the 2003 Act for a variety of permissions and to have any such application considered on its own merits;
  - 3.2.2 override the right of any person to make representations on an application.
- 3.3 Every application will be dealt with impartially and on its individual merits. The Borough Council will not refuse to grant or vary an application unless it has received a representation from a responsible authority, such as the police or an environmental health officer, or other person, such as a local resident or local business, which is a relevant representation.
- 3.4 Licensing is about regulating licensable activities on licensed premises, and any conditions that are attached to premises licences or club premises certificates will be focused on matters which are within the control of the individual licensee or club, i.e. the premises and its vicinity.
- 3.5 Whether or not incidents can be regarded as being “in the vicinity” of licensed premises is a question of fact and will depend on the particular circumstances of the case. In cases of dispute, the question will ultimately be decided by the courts. The Borough Council, in addressing this matter, will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 3.6 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy throughout the borough.

## **5.0 Licensing Hours**

- 5.1 With regard to licensing hours, due consideration will be given to the individual merits of an application. The Borough Council recognises that, in some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided. This can help to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which could lead to disorder and disturbance.
- 5.2 The Borough Council wants to ensure that licensing hours do not inhibit the development of thriving and safe night-time local economies. This is important for investment, local employment and attractive to domestic and international tourists. Providing consumers with greater choice and flexibility is an important consideration, but should always be balanced carefully against the duty to promote the four licensing objectives and the rights of local residents to peace and quiet.

## **14.0 Planning & Building Control**

- 14.1 Planning, Building Control and licensing are separated and consider different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications will not be a re-run of the planning application and will not cut across decisions taken by the planning committee or following appeals against decisions taken by that committee. Licensing Committees are not bound by decisions made by a planning committee, and vice versa.
- 14.2 Applications for premises licences should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission is sought or granted by the planning authority.

## **17.0 Conditions**

- 17.1 The Borough Council will not impose conditions unless it has received a representation from a responsible authority, such as the police or an environmental health officer, or other persons, such as a local resident or local business, which is a relevant representation, or is offered in the applicant's Operating Schedule. Any conditions will be proportional and appropriate to achieve the licensing objectives.

### **Guidance Issued Under Section 182 of the Licensing Act 2003**

*Under Section 4 of the Act, Licensing Authorities must have regard to guidance issued under Section 182. The current Guidance was issued by the Home Office in December 2023 and offers advice to Licensing authorities on the discharge of their functions under the Act.*

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

#### **Licensing Objectives and Aims**

- 1.2 The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.
- 1.3 The licensing objectives are:
- The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm.
- 1.4 Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.
- 1.5 However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- Giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- Recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
- Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

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### **Licence Conditions – General Principles**

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

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

### **Each application on its own merits**

1.17 Each application must be considered on its own merits and in accordance with the licensing authority’s statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be

avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

### **Public nuisance**

- 2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 15). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.



- 2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
- 2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

#### **Protection of children from harm**

- 2.28 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 2.31 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 2.32 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.

## **Public Safety**

2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

2.8 A number of matters should be considered in relation to public safety. These may include:

- Fire safety;
- Ensuring appropriate access for emergency services such as ambulances;
- Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts;
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises and
- Considering the use of CCTV in and around the premises.

2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. Applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

## **Ensuring safe departure of those using the premises**

2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

### **Determining Applications**

- 9.1 When a licensing authority receives an application for a new premises licence or an application to vary an existing premises licence, it must determine whether the application has been made in accordance with section 17 of the 2003 Act, and in accordance with regulations made under sections 17(3) to (6), 34, 42, 54 and 55 of the 2003 Act. It must similarly determine applications for the grant of club premises certificates made in accordance with section 71 of the 2003 Act, and in accordance with regulations made under sections 71(4) to (7), 84, 91 and 92 of the 2003 Act. This means that the licensing authority must consider among other things whether the application has been properly advertised in accordance with those regulations.

### **Where Representations Are Made**

- 9.3 Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant, (see paragraphs 9.4 to 9.10 below) the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.10 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

### **Relevant, vexatious and frivolous representations**

- 9.4 A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.
- 9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any

inconvenience or expense caused by it could reasonably be considered to be proportionate.

- 9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 9.7 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority's corporate complaints procedure. A person may also challenge the authority's decision by way of judicial review.
- 9.8 Licensing authorities should not take decisions about whether representations are frivolous, vexatious or relevant to the licensing objectives on the basis of any political judgement. This may be difficult for councillors who receive complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the sub-committee before any decision is taken that necessitates a hearing. Any councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.
- 9.9 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.

#### **Disclosure of personal details of persons making representations**

- 9.26 Where a notice of a hearing is given to an applicant, the licensing authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with copies of the relevant representations that have been made.

#### **Hearings**

- 9.37 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.
- 9.38 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
- the steps that are appropriate to promote the licensing objectives;
  - the representations (including supporting information) presented by all the parties;

- this Guidance;
- its own statement of licensing policy.

- 9.39 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.
- 9.40 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information.

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

- 9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should

consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

#### **Proposed conditions**

- 10.4 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.
- 10.5 It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention.

#### **Imposed Conditions**

- 10.8 The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.
- 10.9 It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

#### **Proportionality**

- 10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case by case basis and standardised conditions which ignore these individual aspects should be avoided. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

#### **The need for licensed premises**

- 14.19 There can be confusion about the difference between the "need" for premises and the "cumulative impact" of premises on the licensing objectives, for example, on crime and disorder. "Need" concerns the



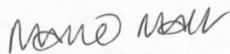
commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.

## **Determination**

12. Having regard to the representations received, the Licensing Sub-Committee are requested to consider the application, this report and take such steps as it considers appropriate for the promotion of the licensing objectives. These steps are:

- 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.

13. The Sub-Committee are 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 Magistrates' Court.



## **Marie Malt**

Licensing Service Manager  
Legal Services & Licensing  
26<sup>th</sup> November 2024

### Appendices:

1. Copy of Application
2. Letter of Representation from 'other persons'
3. Location Map

### Background Papers:

1. The Licensing Act 2003
2. Borough Council's Statement of Licensing Policy (14<sup>th</sup> January 2021)
3. Guidance issued under Section 182 of the Licensing Act 2003 (Dec 2023)

**Your ref no: Form ref:**  
GWPMJWFP

**Form title:** Apply for a new premises licence or a full variation

**Page:** Coversheet

Appendix 1  
Report to Licensing Sub-Committee  
Dial House Cafe  
Dated 26th November 2024

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**Page:** Tell us who you are

**You can only vary a premises licence if you are the premises licence holder, solicitor or other duly authorised agent.**

<b>Are you completing this form on behalf of the applicant?</b>	No - I am the applicant
<b>In what capacity is the applicant applying for a premises licence?</b>	An individual or individuals
<b>Please confirm the following:</b>	The applicant is carrying on or proposing to carry on a business which involves the use of the premises for licensable activities

Page: Tell us about the individual applicants

How many individual applicants are there? 1

Section: Individual applicant details

Title Mrs

Full forename (s) Yosita

Surname Nongna

Date of birth (dd/mm/yyyy)

Nationality

As part of this application the applicant needs to demonstrate their right to work in the United Kingdom. At the end of this form there is the opportunity to upload the relevant documents.

Home address line 1

Home address line 2

Home address line 3

Home address line 4

Postcode

Daytime telephone number

Mobile telephone number

Email address

**Page: Tell us about the premises**

A licence is not required between 08.00 and 23.00 on any day, with no limit on audience size for:

- any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
- any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
- any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
- any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

What are you applying for? apply for a new premises licence

**Section: Apply for a new premises licence**

Name of premises or business Dial House Cafe  
Address line 1 Dial House  
Address line 2 12 Railway Road  
Address line 3  
Address line 4  
Postcode PE38 9EB

Telephone number at the premises 07932496777

Please give a brief description of the premises A ground floor breakfast and lunch cafe.

When do you want the premises licence to start?  
(dd/mm/yyyy) 29/11/2024

If you wish the licence to be valid only for a limited period, when do you want it to end? (dd/mm/yyyy)

What is the non-domestic rateable value (NDRV) of the premises? None - £4,300

If you're unsure of the non-domestic rateable value you can double check this on the [GOV.UK](#) website. **If the premises hasn't been set a non-domestic rateable value by the valuation office, then please select the lowest band.**

How many people are expected to attend the premises at any one time? 4,999 or less

**If you have 30,000 or more people attending at any one time, you will need to contact us.**

**What you will need to pay**

The application fee for a non-rateable value below £4,300 is:

**£100.00**

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## Annual payments

Each premises licence we grant will need to pay an **annual fee**. We will invoice you annually on the date when the first licence was issued.

Where do you want your annual invoice sent to?	Premises address
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**Page:** Tell us which licensable activities

Will you be providing plays at the premises?	No
Will you be providing films at the premises?	No
Will you be providing indoor sporting events at the premises?	No
Will you be providing boxing or wrestling entertainment at the premises?	No
Will you be providing live music at the premises?	No
Will you be providing recorded music at the premises?	No
Will you be providing performances of dance at the premises?	No
Will you be providing anything of a similar description to live music, recorded music or performances of dance at the premises?	No
Will you be providing late night refreshment at the premises?	No
Will you be selling or supplying alcohol at the premises?	Yes

Page: Provision of alcohol

Please make sure you provide the timings in a 24 hour clock, for example, 16:00 and only provide details for the days of the week when you intend the premises to be used for the activity.

Section: Monday

Start time 12:00

End time 16:00

Section: Tuesday

Start time 12:00

End time 16:00

Section: Wednesday

Start time 12:00

End time 16:00

Section: Thursday

Start time 12:00

End time 16:00

Section: Friday

Start time 12:00

End time 16:00

Section: Saturday

Start 12:00

End time 16:00

Section: Sunday

Start time 12:00

End time 16:00

Will the provision of alcohol take place on the premises, off the premises or both? on the premises

Please state any seasonal variations for the provision of alcohol n/a

Where you intend to use the premises for the provision of alcohol at different times to those listed above, please specify below: n/a

**Page:** Tell us about the Designated Premises Supervisor (DPS)

Is this an application for a commercial premises licence requiring a DPS for alcohol sales?	Yes
Are you the proposed Designated Premises Supervisor (DPS)?	Yes

**Section:** Please tell us more about yourself

Please tell us your date of birth (dd/mm/yyyy)	
Please tell us your nationality	
Do you currently hold a personal licence?	
Personal licence number	
Personal licence issuing authority	

**Page:** Tell us the premises opening hours

Please tell us the hours the premises are open to the public. Please make sure you provide the timings in a 24 hour clock, for example, 16:00 and only provide details for the days of the week when you intend the premises to be used for the activities.

Where the 'on sale of alcohol' is present, you may wish to consider drinking up time, for example, alcohol sales end at 23:00, premises open until 23:30.

**Section: Monday**

Start time	12:00
End time	16:00

**Section: Tuesday**

Start time	12:00
End time	16:00

**Section: Wednesday**

Start time	12:00
End time	16:00

**Section: Thursday**

Start time	12:00
End time	16:00

**Section: Friday**

Start time	12:00
End time	16:00

**Section: Saturday**

Start time	12:00
End time	16:00

**Section: Sunday**

Start time	12:00
End time	16:00

Please tell us about any seasonal variations	n/a
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Please tell us where you intend to use the premises at different times to those listed above, please specify below:	n/a
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**Page: Tell us about the operating schedule**

Please highlight any services, activities, entertainment or matters ancillary to the use of the premises that may give rise to concern in respect to children

n/a

**Please describe the steps you intend to take to promote the four licensing objectives:**

**General - List here the steps you will take to promote all four of the licensing objectives**

Dial House Cafe is a small family business open for breakfast and lunch only. The personal licence holder is also the designated premises supervisor and will authorize all sales of alcohol. No alcohol will be sold before 12:00 (noon) any day. Alcohol will only be served in conjunction with a food order. All staff serving alcohol will be advised of licensing law and trained in our internal management practice and policy in relation to alcohol.

**The prevention of crime and disorder**

CCTV is in place on the premises. Staff will request photographic ID to control underage drinking. Alcohol will not be served to individuals that are (suspected by staff to be) drunk or under the influence of drugs. Staff will assist with the prevention of drink-driving by offering to call a Taxi where intoxication is suspected.

Staff will be trained to (1) Recognize signs of intoxication, (2) prevent overconsumption, (3) intervene when a customer has reached their limit; (4) de-escalate potentially problematic situations.

**Public safety**

We will comply with all standard health and safety requirements and put in place additional measures, including: Annual gas safety check; 5-year electrical check; annual PAT testing; up to date health & safety policy & risk assessments; sufficient lighting internally & externally; regular fire checks & servicing of fire detection & extinguishing equipment; emergency procedures in place; good housekeeping procedures in place.

There is no smoking on the premises. Employer's and public liability insurance are in place as relevant.

**The prevention of public nuisance**

Our management plan covers our day-to-day operations and sets out how we manage potential sources of public nuisance, such as parking, noise and waste disposal.

**The protection of children from harm**

Staff will request photographic ID to control underage drinking. Alcohol will only be served in conjunction with a food order.

Page: Documents checklist - applying for a premises licence

You must tick the following statements to confirm you've understood them:

Checklist

- ✓ The DPS named in this application is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate
- ✓ I understand that if I do not comply with the above requirements my application may be rejected
- ✓ I will send a copy of the advert once it has appeared in the newspaper - do not advertise until accepted
- ✓ I understand that I must advertise the application both in the newspaper (within 10 working days) and on the premises (the day after the application is accepted). The Borough Council will send the notice once the application is accepted

As part of this application, you need to provide the following information:

You can use the following upload facility to provide a copy of the set to **scale plans** for the premises:

Uploaded files\*

dial house cafe plan.pdf

\* If empty, no files were uploaded

You can use the following upload facility to provide a **DPS consent form** completed by the proposed premises supervisor:

Uploaded files\*

ynongna\_dps\_consent\_form\_231024.pdf

\* If empty, no files were uploaded

You can use the following upload facility to provide documents demonstrating your **right to work** in the UK:

Uploaded files\*

ynongna passport.pdf

\* If empty, no files were uploaded

Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), you'll need to provide the 9-digit 'share code' provided to the applicant for that service.

How many share codes do you need to tell us about?

Any further information

**Your ref no: Form ref:**  
GWPMJWFP

**Form title:** Apply for a new premises licence or a full variation

**Page:** Payment summary

Application fee for RV below 4300	<b>£100.00</b>
Total	<b>£100.00</b>

Page: Declaration and payment

## Review your answers

Before clicking 'submit' you must review all of the answers you've provided. **Once your form has been submitted, you cannot make any changes.** If you need to make any amendments to this form, then click 'previous' (you will need to click the declaration box first). Please click on the following link to double check your answers.

[Open a read only view of the answers you have given \(this will open in a new window\)](#)

## Privacy notice

The Council has a duty to process and store your personal information safely and securely in line with data protection legislation, which here means the General Data Protection Regulations (Regulation (EC) 2016/679 which is in force from 25 May 2018) (GDPR) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then any successor legislation to the GDPR.

**The Borough Council of King's Lynn and West Norfolk (the Council), of Kings Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX** is the data controller for the purposes of the GDPR and associated domestic law.

We will use your personal information for the purposes of the provision of the licensing services. The processing of this information is necessary for the Council to undertake a public task, i.e. the processing is necessary for the Council to perform a task in the public interest or for its official functions, and the task or function has a clear basis in law, in this case the Licensing Act 2003, as amended.

Your data may be shared between Council departments and other agencies where there is lawful authority to do so.

Your information will be kept strictly confidential. It will be stored separately from other information in a secure, **password-protected database on the Council's computer system.**

Your personal information will be kept for as long as you require a licence and for a period after the service is terminated. You can find more information about our retention policy on the [privacy notice](#) page. We will only use your data within the terms of data protection laws, will delete your data securely and only keep it for as long as necessary. We will review dates for keeping personal data in the future and if necessary update these privacy notices.

You may see copies of the data held about you and ask for it to be corrected or deleted.

You can find more information about Data Protection and the Council's Data Protection Officer, on our [Data Protection](#) page.

If you are unhappy with the way your personal information is being handled you can contact the [Independent Information Commissioner](#).

## Declaration

Please read this declaration carefully before you press submit.

- I certify to the best of my knowledge and belief, the information supplied by me on this form is accurate
- I understand that it is an offence under section 158 of the Licensing Act 2003 to make a false statement in or in connection with this application. Those who make a false statement may be liable on summary conviction to a fine of any amount
- I understand that it is an offence under section 24B of the Immigration Act 1971 for a person to work when they know, or have reasonable cause to believe, that they are disqualified from doing so by reason of their immigration status. Those

who employ an adult without leave or who is subject to conditions as to employment will be liable to a civil penalty under Section 15 of the Immigration, Asylum and Nationality Act 2006 and pursuant to Section 21 of the same Act, will be committing an offence where they do so in the knowledge, or with reasonable cause believe, that the employee is disqualified

- I understand the personal information collected on this form will be used by the Borough Council of King's Lynn and West Norfolk to process my request, and deliver the service
- I understand the personal information will only be disclosed to the Norfolk Constabulary Licensing Team and the Home Office in connection with delivering this service
- I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work related to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK

You can find out more detailed information about our Privacy Policy, on our [privacy notice page](#).

**I confirm that all of the details I have provided are correct and I understand that the information provided on this form is subject to the provisions of the above privacy notice.**

Once you've completed the declaration, please 'submit' your form. You will then be passed to a secure site to make your payment.

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Legal Services and Licencing,  
Borough Council of King's Lynn & West Norfolk  
King's Court  
Chapel Street  
King's Lynn  
PE30 1EX

14 Nov 24

**Subject: Objection to Alcohol License Application for Dial House Cafe, Downham Market Ref: 24/01210/LA\_PRE**

Dear Licensing Team,

I am writing to formally object to the application for an alcohol license for Dial House Cafe, Downham Market. [redacted] we have significant concerns regarding the potential impact of this license on our quality of life, and especially [redacted]. We believe that granting this license would conflict with the licensing objectives as outlined in the Licensing Act 2003. Specifically, our concerns are as follows:

**1. Prevention of Public Nuisance**

The Dial House Cafe is located on a private residential drive, a setting that is not conducive to the increased noise and activity associated with alcohol sales. Conditions placed on the original planning decision reflect the unique residential nature of this location. However, the introduction of alcohol sales would likely increase foot traffic, noise levels, and the risk of loitering, creating a disturbance to the immediate neighbours, [redacted].

**2. Protection of Children from Harm**

[redacted] impacted by increased noise, potential anti-social behaviour, and exposure to patrons consuming alcohol in such close proximity. Residential areas, particularly those attached to family homes, are unsuitable environments for licensed alcohol sales due to the inherent risk of behaviour that could distress or endanger children.

The potential for inappropriate or unsafe interactions outside the cafe could pose harm to our [redacted] especially if patrons congregate in shared or neighbouring areas. Additionally, the outdoor seating area in the front courtyard is in the immediate vicinity and could create an environment where [redacted] directly exposed to alcohol consumption.

**3. Prevention of Crime and Disorder**

Alcohol sales can increase the likelihood of anti-social behaviour, including noise disturbances, littering, and potential confrontations among patrons. Given that the premises is within a residential



drive, there is a heightened risk of trespassing [redacted]  
This could compromise both our security and sense of safety.

**4. Public Safety**

With increased traffic comes increased risks. This private drive is not designed for high volumes of traffic, particularly if patrons are entering or leaving under the influence of alcohol. The residential drive could become a safety hazard, [redacted]

**5. Concerns About Organized Events**

Our correspondence with the applicant has highlighted their intention to hold organized events such as birthday parties on the premises. This is concerning, as it does not align with the planning permission initially granted, which was intended to allow only light lunches and afternoon teas. The proposed events could generate additional noise and traffic beyond what is reasonable for a residential setting and further exacerbate the risk of public nuisance.

**In Conclusion**

The introduction of alcohol sales on this quiet residential drive is likely to have a detrimental impact on the immediate residents, [redacted] We respectfully urge the Licensing Authority to consider these factors and prioritise the preservation [redacted] safety, and well-being.

Thank you for considering this objection.

Yours sincerely,

[redacted signature box]

Premises Location

