

Unconfirmed



Minutes of a Meeting of the **Licensing Sub-Committee** held in the Deben Conference Room, East Suffolk House, Melton, on **Wednesday, 4 October 2023** at **10.00am**.

Members of the Sub-Committee present:

Councillor John Fisher, Councillor Colin Hedgley, Councillor Mark Jepson, Councillor Lee Reeves

Officers present:

Teresa Bailey (Senior Licensing Officer), Martin Clarke (Legal Advisor), Jodie Fisher (Licensing Officer), Leonie Hault (Licensing Officer), Matt Makin (Democratic Services Officer (Regulatory)), Agnes Ogundiran (Conservative Political Group Support Officer), Alli Stone (Democratic Services Officer (Governance))

Others present:

Councillor Alison Cackett (Halesworth Town Council)
The applicant, the applicant's business partner, the objectors

1 Election of a Chair

On the proposition of Councillor Hedgley, seconded by Councillor Fisher it was

RESOLVED

That Councillor Mark Jepson be elected as Chair of the Licensing Sub-Committee for the meeting.

2 Apologies for Absence

No apologies for absence were received.

3 Declarations of Interest

No declarations of interest were made.

4 Declarations of Lobbying and Responses to Lobbying

No declarations of lobbying were made.

5 **New Premises Licence - Halesworth Local, 27 Market Place, Halesworth, IP19 8AY**

The Sub-Committee received report **ES/1683** of the Licensing Officer, which related to an application for a new premises licence for Halesworth Local, 27 Market Place, Halesworth.

The Chair invited the Licensing Officer to summarise the report. The Sub-Committee was advised that a hearing was required as twelve relevant representations against the application had been received.

The Licensing Officer added that following the publication of the report the applicant's representative had supplied supporting documentation, which had been provided to the Licensing Sub-Committee and those who made valid representations the same day. The Sub-Committee was informed that further comments based on these documents had been received from one of the objectors and these had been provided to the applicant and the Sub-Committee prior to the meeting.

The Sub-Committee was advised that it was required to consider the guidance issued under Section 182 of the Licensing Act 2003, the Council's current Statement of Licensing Policy, and the Human Rights Act 1998 when making its decision. The Licensing Officer noted that if the Sub-Committee had reason to depart from these it was required to give full reasons for doing so.

The Sub-Committee was asked to determine the application by either granting the application subject to any mandatory conditions and to those consistent with the application, granting the application subject to the same conditions but modified to such extent as it considered appropriate for the promotion of the licensing objectives, or by rejecting the application, and to state its reasons when announcing its decision.

The Chair invited questions to the Licensing Officer. Councillor Fisher queried what the hours of nearby licensed premises were; the Licensing Officer provided the following details:

- Market Place Wine Shop - 0800 to 2300 Monday to Saturday and 1000 to 2230 Sunday;
- Spar, Thoroughfare - 0800 to 2300 Monday to Saturday and 1000 to 2230 Sunday;
- Angel Hotel, Thoroughfare - 1000 to 0000 Monday to Sunday; and
- White Hart, Thoroughfare - 1000 to 0100 Monday to Saturday and 1000 to 0000 Sunday

The Licensing Officer confirmed to the Chair that no representations had been made by responsible authorities. In response to the Legal Advisor, the Licensing Officer confirmed that a cumulative impact assessment for Halesworth had not been undertaken.

The Chair invited Mr F, the applicant's legal representative, to make representations on the applicant's behalf. Mr F noted that the premises was two shops being converted into one and that the applicant, Algorial Ltd, had made a significant investment to produce a new, modern, professional convenience store. Mr F highlighted that the

applicant was also represented by Mr R, the proposed Designated Premises Supervisor (DPS) and Mr A, the applicant's business partner.

Mr F said that the premises was close to being completely fitted out and would shortly open to the public. Mr F stated that the application for a new premises licence would allow the applicant to add alcohol products to its offer and create a complete convenience store experience. The Licensing Sub-Committee advised that the premises would be staffed by six people.

Mr F described the applicant as a responsible operator who already operated three similar licensed premises, two of them within the district at Saxmundham and Leiston. Mr F advised that the Saxmundham store had been granted a premises licence three years ago and the Leiston Store had been granted one two years ago; Mr F highlighted that the applicant had experience in operating licensed premises to the hours applied for and had been working in local communities in the district for 12 years.

Mr F noted that the inclusion in the application for late night refreshment was to allow the premises to sell hot drinks and snacks and that the store's opening hours would be 0600 to 0000 daily, in line with the proposed licensable hours.

Mr F outlined that the applicant proposed to open the premises at 0600 to provide services to those on their way to work, and the proposed closing time of 0000 was to provide an opportunity for customers to purchase all types of goods late at night, not just alcohol.

Mr F pointed out that a comprehensive operating schedule had been submitted with the application which included measures to promote the licensing objectives; this included CCTV, operating the Challenge 25 scheme, and staff training. Mr F added that supplementary information had been provided detailing how staff would be trained to promote the licensing objectives.

Mr F acknowledged that the 12 representations objecting to the application had been made by residents and that no responsible authority had submitted a representation. Mr F invited the Sub-Committee to attach considerable weight to there being no representations from these statutory consultees; he was of the view that this indicated their contentment with the application, as in his experience responsible authorities always make a representation if they are unhappy with an application.

Mr F summarised the points raised in the representations objecting to the application and considered that many of the comments were irrelevant to the Licensing Act 2003, and were matters that the Sub-Committee should not consider when determining the application. Mr F believed that the proposed operating schedule would negate any issues raised and highlighted that many of the concerns referred to "potential" issues which he considered was speculation on the part of the objectors.

Mr F advised that the applicant's application for a premises licence for their Saxmundham store was also considered by the Licensing Sub-Committee for similar reasons, with that meeting granting a premises licence with operating hours of 0600 to

0000. Mr F said that in the three years since the granting of that licence, the concerns expressed by objectors had not been realised. Mr F considered it would be the same for this premises and stated that the proposed measures in the operating schedule would become conditions attached to any licence granted. Mr F described the applicant as an experienced operator who was aware of the serious consequences of not complying with the conditions of a premises licence.

The Chair invited questions to Mr F. Mr A, at Mr F's invitation, advised the Chair that the alcohol sales would make up less than 25% of the store's offer. In response to a follow up question from Councillor Hedgley, Mr F added that it was standard practice to control spirits sales from behind the counter and that the remaining alcohol would be adjacent to the counter, ensuring all areas of alcohol sales would be under supervision.

Mr R, at Mr F's invitation, confirmed to the Chair that the store would employ local people as well as relatives. Mr F advised that the only late night refreshment served at the applicant's Saxmundham store was hot drinks. In response to a follow up question from the Senior Licensing Officer, Mr F said it was intended that the Halesworth store would operate a coffee machine and small bakery-type facility containing smaller items like croissants and sausage rolls.

Mr F responded to a number of questions from Mr P, an objector to the application. Mr F advised that a minimum of two people would be on shift at any given time and that full training would be given to all staff on how to deal with difficult situations; this training would be backed up by policies and procedures. Mr F explained the nature of fitting out a shop and said that by estimating that alcohol products would take up no more than 25% of the shop, this demonstrated that it would be an element of a wider shop and not pure off-licence style premises.

The Chair invited Councillor Alison Cackett, representing Halesworth Town Council as an objector, to make representations on behalf of that body. Councillor Cackett stated that the Town Council had received numerous representations from residents who were unhappy with the application. The Sub-Committee was informed that the Town Council was primarily concerned with the proposed opening hours and Councillor Cackett highlighted the earlier closing times of the other licensed premises referred to earlier in the meeting.

Councillor Cackett described Halesworth as being predominantly populated by older people and expressed the Town Council's concerns that the proposed store would exacerbate existing street drinking issues in the arboretum opposite its location.

Councillor Cackett cited her experience as a retired Environmental Health Officer and considered that statutory bodies would only respond to a consultation if issues had already been raised by them. Councillor Cackett said that the residents of Halesworth knew what went on in the town and suggested that alternative hours for the store (Monday to Thursday 0600 to 2200, Saturday 0600 to 2300, Sunday 0600 to 2200) would be more appropriate.

Councillor Cackett described the store as being set in a residential area and stated that it would increase parking issues in the area; she acknowledged that this was not a

licensing concern. Councillor Cackett confirmed that the Town Council considered there would be problems with public nuisance and crime and disorder if the application was granted as applied for and said that the later hours were not needed as the town was "dead" after 2200.

The Chair invited questions to Councillor Cackett, and asked where the issues in Halesworth were coming from if the town was "dead" after 2200. Councillor Cackett said the street drinking in the arboretum she referred to was young people with nothing else to do and said the Town Council was concerned older people would buy them alcohol.

The Chair invited Mr P, who objected to the application, to make his representation. Mr P said he could understand the points of view made by the applicant's legal representative but surmised that residents also had the right to a peaceful existence in their town.

There being no questions, the Chair invited all represented parties to sum up.

The Senior Licensing Officer noted that in her experience, Environmental Health did comment on applications where they had not previously been aware of any issues. The Senior Licensing Officer said that there had been no reports of anti-social behaviour linked to the applicant's other stores in the district nor in relation to the sale of alcohol at the Halesworth Co-op.

The Senior Licensing Officer highlighted that the Police took into account street drinking issues when considering applications and pointed out that Public Health had also reviewed the application and raised no concerns. The Senior Licensing Officer made reference to the potential concerns raised by objectors and said that if the Sub-Committee was minded to grant the licence, there was a process whereby any person could apply for a review should issues arise.

Mr F acknowledged that neighbouring premises ceased trading earlier than their licensed hours and said this could be the same for the applicant, depending on market forces. Mr F said the hours applied for would give the applicant flexibility should market forces demonstrate they can trade during those hours, which would come from the Halesworth community.

Mr F said there seemed to be confusion around the town being quiet during late hours but simultaneously suffering from issues relating to young people drinking on the street. Mr F pointed out that the proposed operating schedule ensured that alcohol would not be sold to individuals seen street drinking. Mr F encouraged the Sub-Committee to give weight to the applicant's experience and track record and the lack of representation from responsible authorities, and to give appropriate weight to the representations received, respectfully considering that they were not based in evidence.

Mr F said that the store would be opening imminently and wanted to be part of the community, not a blight, and that the best way to achieve this was for the Town Council to engage directly with the applicant to address any perceived issues.

Councillor Cackett summed up on behalf of all objectors present; she reiterated the site's residential location and the concerns raised regarding the potential impact on public nuisance and crime and disorder that granting the licence would cause. Councillor Cackett said that objectors were asking the Sub-Committee to review the proposed licensable hours and make a sensible decision, appropriate for Halesworth.

The Sub-Committee retired, along with the Legal Advisor and the Democratic Services Officer, to make its decision. On its return, the Chair read the decision notice as follows:

"Algorial Retail Ltd (the applicant) has applied for a new premises license at Halesworth Local, 27 Market Place, Halesworth, IP19 8AY, to permit the sale of alcohol for off sales from Monday to Sunday 06:00 to 00:00 and late-night refreshment (indoors) Monday to Sunday 23:00 to 00:00.

This Sub-Committee has been held as twelve representations against the application have been received from other persons.

The Sub-Committee heard from the Licensing Officer, who summarised the report and confirmed that no responsible authorities had objected to the application. No cumulative impact assessment had been undertaken for the area. The Licensing Officer also confirmed the licensable hours for nearby premises.

The Sub-Committee then heard from the applicant's representative, who indicated that the intention was to provide a comprehensive convenience service to the community and that the concerns raised by the objectors in their representations would be dealt with by the proposed operating schedule, which would become conditions attached to any licence granted. The applicant's representative also stated that the applicant had a proven track record of operating similar premises, including two in the East Suffolk district, both of which had licensable hours of 0600 to 0000. The applicant's representative noted that neither need or competition were valid licensing considerations.

The objectors were concerned that Halesworth was a small market town which had an older population, and the town centre tended to be quiet after 7pm. The objectors added that the premises was in a residential area and were concerned that the premises would attract younger people and exacerbate an existing street drinking problem in the arboretum opposite the shop. The objectors also stated that they had a human right to a peaceful existence. The Licensing Officer clarified that there had been no reports of anti-social behaviour associated with licensed premises in Halesworth.

The decision of the Sub-Committee

The Sub-Committee, having considered the application, the Licensing Officer's report and the representations received from the applicant and the objectors, has decided to grant the licence as applied for.

Reasons for decision

In arriving at this decision, the Sub-Committee has taken into consideration the representations of both the applicant and objectors as well as the Licensing Officer's report. The Sub-Committee also considered the Council's own licensing guidance and statement of licensing policy, as well as the Statutory Section 182 guidance, and Human Rights Act 1998.

Whilst the Sub-Committee has sympathy for the objectors' concerns, there is no evidence to support the claim that granting this licence as applied for would undermine the licensing objectives. The conditions that will be attached to the licence are robust, in particular relating to the Challenge 25 scheme and not selling to those seen street drinking. The Sub-Committee notes that the applicant has successfully operated two licensed premises in the district in similar settings with the same licensable hours and there have been no concerns raised.

The Sub-Committee acknowledges that no cumulative impact assessment has been undertaken for the area and therefore is unable to consider need or saturation.

The Sub-Committee notes that the responsible authorities have not objected to this application and in accordance with paragraph 9.12 of the Section 182 Guidance places considerable weight on this lack of representation from statutory consultees. The Sub-Committee does not accept that responsible authorities only respond where there are existing complaints from the public.

The Sub-Committee also notes paragraph 10.15 of the Section 182 Guidance, which states that unless there are good reasons, based on the licensing objectives, shops should be free to provide sales of alcohol for consumption off the premises at any time the retail outlet is trading. In this case, the Sub-Committee considered there were no good reasons not to grant the licence as applied for.

The Sub-Committee are aware that the objectors have the human right to a peaceful enjoyment of their home but considers that the conditions that will be attached to the licence will enable them to do so. Should the objectors experience any of the concerns they have raised, there is the mechanism to have the premises licence reviewed by the local authority.

In relation to late-night refreshment, the Sub-Committee can see no reason not to grant the application for the same reasons as given above.

Anyone affected by this decision has the right to appeal to the Magistrates' Court within 21 days of receiving notice of the decision.

Date: 4 October 2023"

The meeting concluded at 12.05pm.

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Chair