

Unconfirmed



Minutes of a Meeting of the **Licensing Sub-Committee** held via Zoom, on **Wednesday, 12 May 2021**
at **10:30 am**

Members of the Sub-Committee present:

Councillor Linda Coulam, Councillor John Fisher, Councillor Colin Hedgley, Councillor Keith Robinson

Officers present:

Teresa Bailey (Senior Licensing Officer), Sarah Carter (Democratic Services Officer), Martin Clarke (Legal Advisor), Leonie Houlton (Licensing Officer), Matt Makin (Democratic Services Officer)

Others present:

David Dadds (Applicant's Representative)

1 Election of a Chairman

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

RESOLVED

That Councillor Keith Robinson be elected as Chairman of the Sub-Committee for the meeting.

2 Apologies for Absence

Apologies were received from Councillor Mary Rudd, Cabinet Member with responsibility for Community Health.

3 Declarations of Interest

There were no declarations of interest.

4 Declarations of Lobbying and Responses to Lobbying

There were no declarations of lobbying.

5 New Premises Licence - 120 St Peters Street, Lowestoft

The Sub-Committee received report **ES/0754** of the Legal and Licensing Services Manager, which related to an application for a new Premises Licence at 120 St Peters Street, Lowestoft.

The Chairman confirmed with all parties that they had received the agenda and the report for the meeting.

The Chairman invited the Licensing Officer to summarise her report.

The Licensing Officer stated that the application was before the Sub-Committee as one representation against the application had been received from other persons. The representation had made reference to high levels of crime and anti-social behaviour in the area and considered that the addition of another Premises Licence in the area would increase the likelihood of further issues.

The Sub-Committee was advised that it was to have regard to the guidance issues under Section 182 of the Licensing Act 2003, the Council's Statement of Licensing Policy and the Human Rights Act 1998 when making its decision.

The Sub-Committee was asked to determine this application by:

- Granting the application subject to such conditions as are consistent with the operating schedule accompanying the application and any condition which must be included in the licence in accordance with the Licensing Act 2003;
- Granting the application subject to such conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the Sub-Committee considers appropriate for the promotion of the licensing objectives (for example, by excluding a licensable activity or restricting the hours when a licensable activity can take place), and any condition which must be included in the licence in accordance with the Licensing Act 2003; or
- Rejecting the application.

When announcing its decision, the Sub-Committee was asked to state its reasons.

It was noted that two late representations had been received in objection to the application. The Legal Advisor informed the Sub-Committee that it could choose to include these late representation if it so wished.

This advice was challenged by Mr Dadds, the representative for the applicant, who considered that both the legal framework and case law made it clear that these late representations should not be taken into account by the Sub-Committee when making its decision. Mr Dadds added that the additional written representation made by the objector after the deadline, should only be given weight where it amplifies their original representation.

The Sub-Committee considered that the additional late representations had been made outside the time limit and that it would be unfair to the applicant to include them when making its decision. The Legal Advisor confirmed to the Sub-Committee that the additional comments received from the original objector were permitted under Regulation 18 of the Licensing Act 2003.

There being no questions to the Licensing Officer from either the Sub-Committee, Mr Dadds or the Legal Advisor, the Chairman invited Mr Dadds to present the applicant's case.

Mr Dadds considered the objection to be a trade objector from a neighbouring business. Mr Dadds said that he had previously written to Licensing officers to advise

of this and that therefore the objection had not merit and little to no weight, but that officers had delegated to not accept this position and request that a Licensing Sub-Committee determine the application.

The Sub-Committee was requested by Mr Dadds to either determine that the objection was vexatious and was not corroborated by any evidence, or that if it accepted the objection to give it little or no weight when making its decision. Mr Dadds added that case law was clear that little or no weight should be attached to the statement as the objector was not present at the meeting to represent themselves.

Mr Dadds reiterated that there was no primary evidence, statement of truth or Police support to back up the objection made, and that no objections had been made by local residents or relevant parties such as the Ward Member, licensing authority, Environmental Health or Trading Standards.

Mr Dadds said a lack of representation from these parties should be given appropriate weight by the Sub-Committee when making its decision. Mr Dadds highlighted that the Police would have been duty bound to make a representation if they considered the licensing objectives would be undermined by the granting of this licence.

Mr Dadds considered the application to be a reasonable one with appropriate controls in place. He was of the view that the Sub-Committee should either grant the licence if it considers the objection to be a trade objection, or if accepting the objection note that the objector had chosen not to attend the hearing and that no objections had been received from other parties.

The Chairman invited questions to Mr Dadds.

Mr Dadds confirmed that the premises would be a convenience store selling a range of products. The applicant was refurbishing the property to bring into back into use and Mr Dadds considered the store would provide healthy competition in the area.

Mr Dadds confirmed that the applicant was familiar with the area and had taken a commercial decision to invest in the premises. Mr Dadds added that the applicant had other licensed premises where no issues had been raised.

Mr Dadds, in response to a question regarding the use of the living space above the premises, considered this question was not relevant to the application and, in any event, was not aware of the applicant's intention for this living space.

In response to a question from the Legal Advisor, the Licensing Officer said she was not aware that the applicant was using the premises as their home address.

The Chairman invited all parties present to sum up. Both the Licensing Officer and Mr Dadds advised that they had nothing further to add.

The Sub-Committee retired with the Legal Advisor and the Democratic Services Officer to make its decision.

On the Sub-Committee's return, the Chairman read out the following decision notice:

"Mr Rajendran Rajmoan has applied for a premises licence at a convenience store located at 120 St Peters Street, Lowestoft, NR32 1UD, which would allow the sale of alcohol and late-night refreshments for consumption off the premises.

This Sub-Committee has been held as one representation was received against the application.

In arriving at this decision, the Sub-Committee has taken into consideration the oral and written representations submitted by all parties, the guidance under Section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy. The Licensing Officer's report also drew the Sub-Committee's attention to its obligations under the Human Rights Act 1998.

The Sub-Committee heard from the Council's Licensing Officer, Ms Hoult, and, on behalf of the applicant, from Mr Dadds, the applicant's representative. There was no attendance from the objector who had made the relevant representations. The Sub-Committee also considered the written representations submitted by the same objector on 10 May 2021.

The Sub-Committee declined the written representations from other objectors, as they were received so late that it was considered that it would be unfair to the applicant to accept them. Therefore, these representations were not taken into account when the Sub-Committee was making its decision.

The Sub-Committee noted that no representations had been received from any responsible authorities.

All parties present at the Hearing were permitted to ask questions of their counterparts throughout the Hearing. The objector was not present at the Hearing.

The Applicant's submission

The applicant submitted that he was an experienced operator of licensed premises and no concerns had been raised in relation to his other premises. The applicant also submitted that the objector was a trade objector and therefore his representation should be deemed vexatious.

In addition, the applicant drew the Sub-Committee's attention to paragraph 9.12 of the statutory guidance and the fact that the Police, as a responsible body, had declined to make any representations in this matter.

The applicant proposed conditions in his application (set out in the Licensing Officer's report) to deal with any concerns that the Sub-Committee may have regarding the licensing objectives.

The Objectors' submissions

The objector did not attend the Hearing and therefore his submissions consisted of the written representations made previously and summarised in the Licensing Officer's report.

The objector's concerns were related to the high level of anti-social behaviour and crime in the area, including two recent stabbings.

All parties present at the Hearing were given the opportunity to sum up.

Sub-Committee's decision

After considering the application and the representations, both written and oral, the Sub-Committee has decided to grant the Premises Licence with the conditions proposed by the applicant.

In arriving at its decision, the Sub-Committee has given due consideration to the representations made, the statutory guidance (in particular paragraph 9.12) and the licensing objectives contained in the Licensing Act 2003.

Anyone affected by this decision has the right to appeal to the Magistrates' Court within 21 days of receiving this notice of the decision. Any person can make an application to the Licensing Authority for a review of the premises licence if they believe the licensing objectives have been compromised by the applicant at any time.

Date: 12 May 2021"

The meeting concluded at 12:05 pm

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Chairman