

Licensing and Appeals Committee



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Monday, 9 May 2022

A meeting of the **Licensing and Appeals Committee** of North Norfolk District Council will be held in the Council Chamber - Council Offices on **Tuesday, 17 May 2022 at 10.00 am.**

At the discretion of the Chairman, a short break will be taken after the meeting has been running for approximately one and a half hours

Members of the public who wish to ask a question or speak on an agenda item are requested to arrive at least 15 minutes before the start of the meeting. It will not always be possible to accommodate requests after that time. This is to allow time for the Committee Chair to rearrange the order of items on the agenda for the convenience of members of the public. Further information on the procedure for public speaking can be obtained from Democratic Services, Tel: 01263 516019, Email: linda.yarham@north-norfolk.gov.uk

Anyone attending this meeting may take photographs, film or audio-record the proceedings and report on the meeting. Anyone wishing to do so must inform the Chairman. If you are a member of the public and you wish to speak on an item on the agenda, please be aware that you may be filmed or photographed.

Emma Denny
Democratic Services Manager

To: Dr P Bütikofer, Mr H Blathwayt, Mr T Adams, Mr D Birch, Mr C Cushing, Mr P Fisher, Mrs P Grove-Jones, Mr N Housden, Mr N Lloyd, Mr N Pearce, Mrs G Perry-Warnes, Mr J Rest, Mrs E Spagnola, Mr E Vardy and Mr A Yiasimi

All other Members of the Council for information.

Members of the Management Team, appropriate Officers, Press and Public



**If you have any special requirements in order
to attend this meeting, please let us know in advance**

If you would like any document in large print, audio, Braille, alternative format or in a different language please contact us

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A G E N D A

1. TO RECEIVE APOLOGIES FOR ABSENCE

2. PUBLIC QUESTIONS

3. MINUTES

(Pages 1 - 42)

To approve as a correct record, the minutes of the meeting of the Licensing and Appeals Committee held on 27th September 2021 and of meetings of the Licensing Sub-Committee held on 20th September, 20th October, 15th November 2021 and 16th January, 16th March, 11th April 2022

4. ITEMS OF URGENT BUSINESS

To determine any other items of business which the Chairman decides should be considered as a matter of urgency pursuant to Section 100B(4)(b) of the Local Government Act 1972.

5. DECLARATIONS OF INTEREST

(Pages 43 - 44)

Members are asked at this stage to declare any interests that they may have in any of the following items on the agenda. The Code of Conduct for Members requires that declarations include the nature of the interest and whether it is a disclosable pecuniary interest. Members are requested to refer to the attached guidance and flowchart.

6. UPDATE ON GENERAL LICENSING ISSUES

To give an oral update on licensing issues.

7. LICENSING COMMITTEES FROM MAY 2022

(Pages 45 - 58)

Summary: This report reminds Members that from May 2022 there will be two separate Licensing Committees and provides a suggested guidance note for each of these Committees.

Options considered: To note this report and consider whether to adopt or amend the procedure guidance notes

Conclusions: To note this report and the procedure guides

Recommendations: **To note the report and adopt the new procedure guides for the two separate licensing committees**

Reasons for Recommendations: To remind Members that there is to be two separate licensing Committees from May 2022 and to provide clarity of procedure to Members and parties involved in future hearings by way of a procedure guide for each Committee

LIST OF BACKGROUND PAPERS AS REQUIRED BY LAW

(Papers relied on to write the report, which do not contain exempt information and which are not published elsewhere)

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Cabinet Member(s)	Ward(s) affected All
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Contact Officer, telephone number and email: Cara Jordan
Cara.jordan@north-norfolk.gov.uk

8. ANY OTHER URGENT BUSINESS AT THE DISCRETION OF THE CHAIRMAN AND AS PREVIOUSLY DETERMINED UNDER ITEM 4 ABOVE

9. EXCLUSION OF PRESS AND PUBLIC

To pass the following resolution, if necessary:

“That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph _ of Part I of Schedule 12A (as amended) to the Act.”

10. TO CONSIDER ANY EXEMPT MATTERS ARISING FROM THE PUBLIC BUSINESS OF THE AGENDA

11. ANY OTHER URGENT EXEMPT BUSINESS AT THE DISCRETION OF THE CHAIRMAN AND AS PREVIOUSLY DETERMINED UNDER ITEM 4 ABOVE

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LICENSING AND APPEALS COMMITTEE

Minutes of the meeting of the Licensing and Appeals Committee held on Monday, 27 September 2021 at the Council Chamber - Council Offices at 10.00 am

Committee Mr D Birch
Members present: Mr C Cushing
Mr P Fisher
Mrs P Grove-Jones
Mr N Housden
Mr N Lloyd
Mr J Rest

Members also attending: Mrs G Perry-Warnes

Officers in Attendance: Public Protection & Commercial Manager, Trainee Solicitor, Democratic Services & Governance Officer (Regulatory) and Democratic Services and Governance Officer - Scrutiny

1 APPOINTMENT OF CHAIRMAN FOR THE MEETING

In the absence of the Chairman and Vice Chairman, it was proposed by Councillor Mrs P Grove-Jones, seconded by Councillor N Lloyd and

RESOLVED

That Councillor J Rest be appointed as Chairman for the meeting.

Councillor Rest took the Chair.

2 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors T Adams, H Blathwayt and P Bütikofer.

The Chairman expressed concern that a number of Committee Members were not present and had not given their apologies.

3 PUBLIC QUESTIONS

None.

4 MINUTES

The Minutes of a meeting of the Licensing & Appeals Committee held on 23 November 2020 and of meetings of the Licensing Sub-Committee held on 17 March, 13 April, 24 May and 25 August 2021 were approved as correct records.

5 ITEMS OF URGENT BUSINESS

None.

6 DECLARATIONS OF INTEREST

None.

7 REVIEW OF GAMBLING AND LICENSING POLICIES

The Public Protection and Commercial Manager presented a report that outlined the draft revisions to the Council's Statement of Licensing Policy under the Licensing Act 2003 and the Statement of Principles under the Gambling Act 2005. She recommended that both documents be recommended for approval by Full Council and publication in accordance with legislative requirements.

Licensing Policy

The Public Protection and Commercial Manager highlighted the main changes to the Licensing Policy. There were no fundamental changes, but the document had been revised to include all aspects of the work carried out by the Council under the Licensing Act 2003, and to reflect changes in the Section 182 guidance. The revisions highlighted the partnership working with the Police and other agencies, the aim to reduce antisocial behaviour and alcohol related crime, and to reduce alcohol consumption in young people. The consultation process had been clarified in the document.

Councillor Mrs P Grove-Jones requested clarification on cumulative impact. She understood that there was no limit on the number of licences that could be issued in any particular area in North Norfolk.

The Public Protection and Commercial Manager explained that cumulative impact was not currently an issue in North Norfolk, but the section remained in the policy to ensure there was flexibility in case it was needed.

Councillor Mrs Grove-Jones requested the definition of category C and D gaming machines under paragraph 22.2 of the policy.

The Public Protection and Commercial Manager stated that the Gambling Commission's website described category C as machines with a maximum stake of £1 and maximum payout of £100, and category D as low stake fruit machines, coin pushers or crane grabs.

In answer to a question by Councillor C Cushing, the Public Protection and Commercial Manager confirmed that the consultees listed at paragraph 2.5 of the Licensing Policy had been consulted each time the draft had been published but no responses had been received.

The Chairman requested that local Members be notified when personal or premises licences were due for renewal as they were not always aware of what was happening in their Wards.

The Public Protection and Commercial Manager agreed to consider if a streamlined process could be put in place to ensure that local Members received notifications.

Gambling Policy

The Public Protection and Commercial Manager stated that the Gambling Policy consultation was ongoing and no responses had been received to date.

Councillor N Lloyd considered that “*We will support the local authority ...*” in paragraph 15.3 was unclear as to the organisation taking the action. The Public Protection and Commercial Manager stated that she would ensure that this was clarified.

Councillor Mrs Grove-Jones requested a definition of ‘moral objections’ in paragraph 10.2.

The Public Protection and Commercial Manager explained that moral objections could relate to someone’s personal view that gambling in general was unacceptable. Objections had to be justified by evidence as to why gambling was not acceptable in the proposed location.

In response to a supplementary question, the Trainee Solicitor stated that she would provide clarification following the meeting as to the weight that could be given to the views of a religious organisation that objected to the principle of gambling as part of its beliefs.

Councillor Mrs Grove-Jones asked if the policy included televised gambling.

The Public Protection and Commercial Manager considered that the policy might apply if an event was televised within a licensed premises. The Gambling Commission dealt with national operators such as online gambling firms.

The Trainee Solicitor stated that she would provide clarification on televised gambling following the meeting.

Councillor Cushing noted that the list of consultees did not include religious organisations and asked if they were consulted.

The Public Protection and Commercial Manager stated that although she was not aware if any religious organisations had been consulted, both policies were subject to public consultation so they would have the opportunity to make representations. It was difficult to consult every organisation individually.

Councillor N Lloyd expressed concern that there had been very few responses to either policy and asked how the consultations had been conducted.

The Public Protection and Commercial Manager explained that the same statutory consultee organisations were consulted each time by letter or email, and the consultation was advertised through the Council’s website and social media. The consultation process was a national approach and consistent with other local authorities. She invited Members to share with her any ideas they had for improving the consultation process locally, or organisations that should be consulted.

It was proposed by Councillor Mrs P Grove-Jones, seconded by Councillor P Fisher and

RECOMMENDED unanimously*

That Full Council approve the proposed revisions to the Council’s Statement of Licensing Policy under the Licensing Act 2003, and the Statement of Principles under the Gambling Act 2005 and their publication in accordance with legislative requirements.

*Councillor D Birch was unable to vote as he had arrived following the commencement of the presentation on this item.

8 SHERINGHAM 1940S EVENT & TRAINING REQUEST

With the agreement of the Chairman, Councillor N Housden raised an issue of concern as an item of urgent business, relating to a recent 1940s event. Whilst he had not attended the event, he had observed a number of military vehicles travelling along the coast road at Morston, which was some distance from the event, with various firearms on show. Whilst he accepted that they were likely to be decommissioned weapons, he considered that it was grossly inappropriate particularly given recent events in Afghanistan and the UK. He asked if the activity required a licence.

The Public Protection and Commercial Manager explained that the static display was licensable and had taken place under the venue's premises licence. The driving of the vehicles on the public highway was a matter for the Police and not the local authority. She understood that there was a military vehicle group in Norwich and was happy to make the organisers aware of the concerns.

Councillor Mrs Grove-Jones asked if re-enactment events required licensing.

The Trainee Solicitor stated that she would look into the points raised and would revert following the meeting if required.

The Public Protection and Commercial Manager stated that these events would be subject to licensing if they were open to the public with licensable activities being undertaken.

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At this point in the meeting Councillor Mrs G Perry-Warnes arrived. She explained that she had mistakenly thought the meeting was being held remotely and had wanted to ask some questions.

With the agreement of the Committee, the Chairman invited her to ask her questions. A question regarding notification of local Members had been addressed earlier in the meeting. Secondly, she requested that additional training be given to Members on pre-determination in licensing as this had recently caused an issue.

The Public Protection and Commercial Manager stated that training was already being planned, either in-house or possibly by James Button, a licensing solicitor. She invited Members to let her know if there were other areas of licensing on which they required support.

The Chairman requested that training be delivered using Zoom.

9 UPDATE ON GENERAL LICENSING ISSUES

The Public Protection and Commercial Manager updated the Committee on the following general licensing matters. A briefing note would be circulated to the Committee following the meeting.

- The Council's membership of the Institute of Licensing was now unlimited so

Members were able to sign up if they wished. Joining details would be included in the briefing note.

- The Team were very busy and tight on resources due to the pandemic. The Public Protection and Commercial Manager paid tribute to the staff for the work they had been doing.
- There had been an increase in animal licensing matters. Two dangerous wild animals had been seized from an unlicensed owner, and the investigation was ongoing.
- A County-wide discussion group on animal licensing had been set up and a meeting held at Breckland Council to share information and look at common ways of working.
- An investigation was ongoing in respect of a potential sexual entertainment establishment.
- A team planning exercise had taken place as part of the Council's corporate approach to service planning, to build a plan for the team's direction over the next 18 months. This work would include a review of licensing fees, mobile home fees and the street trading policy.
- A three-year programme of caravan site inspections would be carried out, dealing with the highest risk premises first. The team would work with the planning team to ensure that the site licences were consistent with planning permission.
- A fee had been introduced for fit and proper person checks for residential mobile home sites.
- Collaborative work with other agencies was ongoing and key projects were being undertaken to reduce antisocial behaviour in the District.
- The Government had extended the temporary increase in the number of Temporary Event Notices (TENs) from 15 events to 20 events per premises for 2022 and 2023.
- The Government had extended temporary permitted development rights for the sale of takeaway alcohol from licensed premises had been extended until 30 September 2022.
- A Government consultation on temporary permitted development rights was ongoing, running until 14 November 2021.

Councillor Mrs Grove-Jones asked under what circumstances a static caravan would be classed as residential.

The Public Protection and Commercial Manager explained that if the occupant was paying Council Tax and it was their principal residence it would be considered as residential. There were premises that had evolved as mixed sites over a number of years, which were very complex and sensitive. The Licensing Team worked closely with the Revenues Team to establish who was occupying the premises and their reason for being there.

Councillor N Lloyd stated that as Portfolio Holder he wished to publicly thank the Public Protection and Commercial Manager and her team for the work they were doing. He was amazed at the breadth and complexity of the cases they dealt with, many of which were sensitive issues. The staff had risen to the challenge despite the challenges of the pandemic.

The Public Protection and Commercial Manager thanked Councillor Lloyd for his feedback.

The meeting ended at 11.00 am.

Chairman

LICENSING SUB-COMMITTEE

Minutes of the meeting of the Licensing Sub-Committee held on Monday, 20 September 2021 remotely via Zoom at 10.00 am

Committee Dr P Bütikofer (Chairman) Mr T Adams
Members Present: Mrs P Grove-Jones

Officers in Attendance: Licensing Enforcement Officer, Legal Assistant, Democratic Services & Governance Officer (Regulatory) and Democratic Services Manager

Also in attendance: Alex Green, Gosshalks LLP, representing the Applicant
Alison Cornelius on behalf of the Applicant
Tim Armitage, Objector

1 TO RECEIVE APOLOGIES FOR ABSENCE

None.

2 ITEMS OF URGENT BUSINESS

None.

3 DECLARATIONS OF INTEREST

None.

4 APPLICATION FOR A NEW PREMISES LICENCE - THE BULL, 41 BRIDGE STREET, FAKENHAM, NORFOLK, NR21 9AG

The Chairman, Members of the Panel and Officers introduced themselves.

The Legal Advisor outlined the purpose of the hearing and explained the procedure for the meeting. She confirmed with the Panel and Applicant's Representative that they had received a copy of the agenda papers. She reminded the Sub-Committee that the hearing was being conducted remotely via Zoom and must be conducted fairly and reasonably in line with the Applicant's right to a fair hearing under Article 6 of the Human Rights Act 1998. In the event of any participant leaving the hearing due to a technical issue, the hearing would not proceed until all parties were present. She drew attention to the fact that no Responsible Authorities had objected to the application.

The Licensing Enforcement Officer presented the report, which related to an application for a new Premises Licence to which objections had been received from local residents. The premises had been licensed previously on the basis of 24 hours, 7 days a week for all licensable activities. The licence had been closed on 5 November 2020 due to the insolvency of the licence holder and was not transferred within the statutory period of 28 days, therefore it was necessary to apply for a new Premises Licence. The Licensing Enforcement Officer referred to the operating schedule, mandatory and voluntary conditions. The Police had confirmed that they were happy with the application and the additional conditions proposed by the Applicant.

The Chairman requested clarification of 'off licence' and 'late night refreshment'.

The Licensing Enforcement Officer explained that 'off licence' meant the sale of alcohol in closed containers for customers to consume away from the premises.

Mr Green explained that there were letting rooms at the premises and a late night refreshment licence was necessary to allow the sale of hot drinks or food if required after 11 pm. It was not intended to operate as a takeaway food business.

The Licensing Enforcement Officer confirmed that a licence for late night refreshment was necessary for any premises that wanted to serve hot food or a cup of tea or coffee after 11pm and before 5am.

Mr Green presented the case on behalf of the Applicant. Mr Green stated that the property had traded as a public house since around 1837. The premises licence had not been revoked, but had lapsed due to the bankruptcy of the tenants and the failure due to an administrative error to transfer the licence within 28 days. As soon as the applicants realised the error they commenced the process of applying to re-licence the premises. The re-application intended to replicate as closely as possible the lapsed licence, but it was important to note that the previous licence had been totally unrestricted and, having liaised with the Police, the Applicant had agreed to submit the application with the alcohol and opening hours more in keeping with other premises in the town. Unlike the previous licence, the current application included voluntary conditions that had been discussed and agreed with the Police and Environmental Health. None of the Responsible Authorities, who were experts in their respective fields, had objected to this application. The Applicant owned the largest freehold pub estate in the UK, as well as other retail and restaurant premises. The Applicant was in discussion with potential tenants but could not proceed further until the pub was licenced. The Applicant wanted the property to be of benefit to the community, whereas it was currently a burden. Mr Green outlined the steps to promote the four licensing objectives, which were included in the conditions agreed with the Police. He stated that the representations had to be considered against the backdrop of the lack of objection from the Responsible Authorities. He stated that the Applicant accepted and understood the concerns of the local objectors, but the licensing hours were significantly more restrictive than those in place under the previous licence.

Mr Green addressed the concerns raised by each of the objectors. In response to concerns raised by Mr Armitage, he stated that there were no plans to change the offering from the traditional pub and the hours sought were considerably less than the lapsed licence. His fear that the premises would become somewhere to go after other premises had closed were supposition and speculation and appeared to be based on noise coming from another premises. The pub was relatively small with letting rooms and a small kitchen, in a mainly commercial part of the town. It was not in the Applicant's interest to have noise late at night due to the letting rooms.

In response to Mr Lynam's concerns, Mr Green considered that they appeared to be based on issues Mr Lynam had with The Crown public house and were not on evidence that The Bull had caused any problems in the past. There were other options available to Mr Lynam if he had issues with a licensed premises. It was expected that the opening hours for The Bull would be similar to The Crown. The disturbances outside The Crown were not overly relevant to the application. Mr Lynam had mentioned the Police statistics for the town, but the Police had no issue whatsoever with the application as submitted.

Mr Green considered that the issues raised by Mr and Mrs Watts were based on a misunderstanding around late night sessions and live music provision. The hours were considerably less than the previous licence, the offering was not being changed and the late night refreshment provisions were simply to give the flexibility to offer a hot drink to somebody who was still on the premises after 11pm.

The Committee questioned Mr Green.

Cllr T Adams requested confirmation that the kitchen would not be operating outside normal hours and asked if the planned opening times would in practice be as detailed in the application.

Mr Green stated that he understood there were no plans to provide a late night food offering, and food would be available for the period that was commercially viable for a traditional pub. The opening hours applied for would allow flexibility but would depend on the new tenant. He reiterated that the hours were much shorter than the previous licence.

Cllr Mrs P Grove-Jones asked if there was a capacity limit on the number of patrons in the bar and seating area, to what type of patron the premises would be targeted and if there was an outside area for patrons to sit and consume alcohol or food.

Mr Green was not aware of a limit on capacity but the premises were not large. Historically there had been a real ale element to The Bull, with slightly older beer drinkers. There was a possibility of a bistro-style offering but the kitchen was not large. The clientele were likely to be mixed. It would not be a 'wet-led' pub attracting young drinkers. There was a small terrace at the front of the property that would be available for patrons to use.

The Licensing Enforcement Officer provided further clarification in respect of late night refreshment. The sale of a cup of tea or coffee beyond 11pm would be in breach of the Licensing Act unless late night refreshment was included in the licence, and it was not generally used for the sale of hot food late at night.

The Chairman invited Mr Armitage to speak.

Mr Armitage stated that he represented 27 elderly people with dementia. The problem was the proximity of the pub to his premises. He understood what Mr Green was saying about licensing hours being less than previously, but he had not been aware that he could complain at the time the Government had allowed 24 hour a day opening. He had been glad that The Bull had remained a traditional ale drinker's pub following the Government's extension of opening hours, shutting at 11pm with customers having left by 11.30 pm, so there was a reasonable time when people could get to sleep and enjoy a reasonable quality of life. He stated that dementia patients lived in the moment and did not understand that the disturbance would stop. He accepted that what might happen was hypothetical at this stage, but he considered that disturbance would occur. He considered that it was a human right to get a decent night's sleep at a reasonable time and this was no different in the town centre than elsewhere. He asked the Sub-Committee to consider what it would be like to have the noise going on outside their bedroom windows.

The Chairman stated that dementia patients were not deaf and it should not be assumed that they were. He asked Mr Armitage how long his property had been a residential home prior to the lapse of the previous licence, and if he had experienced noise nuisance within the last 5 to 10 years.

Mr Armitage stated that the residential home had been established since the 1980s and The Bull had been a normal pub, closing at 11 pm with people going home at 11.30 pm, as had The Limes across the road. There were a lot of pubs in the vicinity. He reiterated that he had been concerned when the licensing hours were extended but he thought that 24 hour opening was the law and only realised that hours could be restricted when he saw the current application. He considered that there would be an issue for the residential home. Regarding noise problems, the situation had improved since Wetherspoons took over The Limes as it used to be a rowdy music pub. He was concerned that The Bull would look for a niche to compete with Wetherspoons as it could not compete on the price of beer. It was music late at night that was his concern.

Mr Green stated that he respected Mr Armitage's opinion, but the Applicant was not looking for a niche and there was no intention to open up a late night music venue. Live and amplified music was allowed until 11pm in any case. He thanked Mr Armitage for confirming that The Bull had not been a problem in the past.

The Chairman asked how often the Police had been involved with incidents in the last five years and whether there had been any incidents of antisocial behaviour that had not involved the Police.

Ms Cornelius stated that she had been involved with The Bull for five years and had not dealt with the Police in that time. She was not aware of any incidents of antisocial behaviour.

The Licensing Enforcement Officer stated that the licence being applied for included fewer licensable activities than the previous licence.

The Legal Advisor asked Mr Green if there were plans for the opening hours at this stage, where in the premises music would be played, and if music would be played outside.

Mr Green explained that there were no plans in place for opening hours at this stage as it was important to get the pub up and running, and to do so the Applicant needed to attract a suitable tenant. Mr Green referred to the premises plan and stated that any live or recorded music would be played in the main section of the pub. There was no separate area for music and there were no plans to introduce live or recorded music outside. It was simply a case of replicating the previous licence.

The Legal Advisor asked how the applicant would promote the main licensing objective raised by the objectors, relating to noise.

Mr Green stated that noise had never been a problem and none of the Responsible Authorities had an issue. Whilst he was loathe to offer up a condition in those circumstances, he suggested that a potential condition could be added to require all windows and doors to be closed after 11pm when any regulated entertainment is taking place.

Cllr Mrs Grove-Jones asked if Mr Green would accept a condition to restrict the playing of music after a specified time.

Mr Green stated that it was important that the licensing objectives were met if regulated entertainment took place after 11pm, and a condition to require windows and doors to remain closed should mean there was no nuisance to the neighbours.

He referred to the neighbours' rights in the event of a nuisance being caused.

The Licensing Enforcement Officer confirmed that the application related to live and recorded music inside the premises and not outside. The application requested the provision of films outside.

Mr Green confirmed that the request for films outside was a tick box exercise and there were no plans for a 'drive-through' offering.

The Chairman sought the Applicant's views on a condition requiring windows to be closed after 11pm, bearing in mind hot summers.

Ms Cornelius confirmed that she did not have a problem with such a condition, but referred to the requirement for good ventilation under the Covid restrictions. The trade was currently nervous of another lockdown or restrictions during the winter and it was a matter of weighing up the balance between a rare escape of music late at night as opposed to customers' health.

Cllr Mrs Grove-Jones stated that ventilation was very important and many pubs now had air conditioning.

Ms Cornelius explained that the majority of the Company's pubs did not have forced air ventilation or air conditioning.

In answer to a question by Cllr Mrs Grove-Jones, the Licensing Enforcement Officer explained that occupancy would be determined by the fire risk assessment for the premises.

Mr Armitage stated that older people tended to go to bed earlier so the music would be for younger and perhaps more rowdy people. He did not object to a traditional pub, but his concerns related to how the pub would be marketed to compete with other offerings in the town, which would be music late at night.

The Chairman stated that the Sub-Committee would listen to Mr Armitage's objections, and reminded him that he could contact the Environmental Health Department in the event of any issues.

Mr Green presented his closing statement. He referred to the Home Office guidance and the High Court case of Thwaites, requiring that determination should be based on evidence and not supposition or guesswork. He stated that no objections had been received from the Police or Environmental Health, who were the experts in crime and disorder and nuisance and noise. The Police would have objected if there were any concerns regarding the premises or immediate area, which should carry considerable weight in determining the application. Robust and comprehensive conditions had been agreed in advance with the Police. The Bull was a long established, traditional pub with a food offering and letting rooms, and the Applicant wanted to breathe life into the area and not have another closed pub. He respected the objectors' views, but they were predicting what might happen and had raised concerns regarding noise and music that seemed to be based on another pub in the Market Place. Mr Armitage had confirmed that there had been no problems historically with The Bull. He reminded the Sub-Committee that this was not a review hearing, and that the hearing would not have been necessary if the transfer had taken place. He reminded the objectors that in the event of the Licensing Act objectives not being met, they were able to bring the matter to the attention of the licensing authorities. He invited the Sub-Committee to grant the licence in full.

The Licensing Enforcement Officer drew attention to the determining actions that were appropriate for the promotion of the licensing objectives on page 17 of the report.

The Legal Advisor explained how the determination of this application would be conducted and her role in assisting with the formulation of facts and reasoning. She set out the advice she would give to the Sub-Committee to deal with the application impartially and on its individual merits, to consider only the representations that related to the promotion of the four licensing objectives. She would refer to case law that recognised that significant weight should be given to the views of the Responsible Authorities, none of which had objected to this application.

The Sub-Committee retired at 10.59 am.

RESOLVED

That the licence be granted, subject to

- 1. The mandatory conditions applicable under the Licensing Act 2003.**
- 2. The conditions consistent with the operating schedule as detailed in the report.**

The Sub-Committee did not impose any further conditions.

The meeting ended at 10.59 am.

Chairman

LICENSING SUB-COMMITTEE

Minutes of the meeting of the Licensing Sub-Committee held on Wednesday, 20 October 2021 at the Council Chamber - Council Offices at 10.00 am.

Committee Mrs P Grove-Jones (Chairman) Mr P Fisher
Members Present: Mr E Vardy

Officers in Attendance: Licensing Enforcement Officer, Trainee Solicitor and Democratic Services & Governance Officer (Regulatory)

1 TO RECEIVE APOLOGIES FOR ABSENCE

None.

2 ITEMS OF URGENT BUSINESS

None.

3 DECLARATIONS OF INTEREST

None.

4 EXCLUSION OF PRESS AND PUBLIC

RESOLVED

That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A (as amended) to the Act.

5 (WK/210013047) - REVIEW OF A PRIVATE HIRE OPERATORS LICENCE AND A PRIVATE HIRE VEHICLE LICENCES IN NORTH NORFOLK

Present: Licence Holder

The Members of the Panel and Officers introduced themselves.

The Legal Advisor outlined the purpose of the hearing and explained the procedure for the meeting.

The Licensing Enforcement Officer presented the report, which related to a review of a Private Hire Operator's Licence and Private Hire Vehicle Licence.

In response to questions by the Licence Holder, the Licensing Enforcement Officer explained that she had found out about the action taken against him by the Office of the Traffic Commissioner (OTC) through the press, and he had not declared this on his applications for the licences now under review. The Council's remit was to protect the public, and this hearing had been called to hear why the Licence Holder considered himself to be a fit and proper person. There had been no correspondence since the issue of his licences by the Council to indicate that there had been any complaints. However, the Council was permitted to take any

information into account in determining this case. The only vehicle that was relevant to this hearing was the one that had been licensed by this authority, and relevant issues regarding the repair that had been carried out to that vehicle.

The Chairman explained that the Sub-Committee understood that articles in the press were written to sell newspapers but it had to be considered as it was in the public domain. She invited the Licence Holder to make his statement.

The Licence Holder explained that the taxi operation was not his main business but he wanted to avoid having it taken away. He had had two years of uncertainty regarding the action by the OTC, following which action had been taken that was detrimental to his business. He outlined the history of his business and stated that other companies had made complaints to the OTC, as a result of which an unannounced inspection had been carried out. Until that investigation, all roadside checks had been passed with no problem. He had a maintenance agreement with a third party, who would not have signed any vehicle off if it was unsafe. The issues related to record keeping and the lack of a forward plan.

The Licence Holder stated that the company had a very good relationship with its customers, who had said they would continue to support him. He considered that the company was a victim of its own success and he was guilty of not saying no. He explained how his business was now operating and his intentions for the business going forward. He was not interested in operating a taxi service, but retained the vehicle licensed by NNDC to offer an additional service in conjunction with the main function of the business.

The Licence Holder apologised for omitting to make the Council aware of the action taken against him by the OTC. He had been naïve in his understanding that the two did not affect each other. He explained the difficulties he had had in getting his inquiry heard by the OTC and questioned why it had taken two years if he was deemed to be risking lives. He had not challenged the decision as he wanted his licence back as soon as he was able to reapply for it. He did not intend to take on the role of Transport Manager in the future as it was too much of a hassle.

The Sub-Committee questioned the Licence Holder regarding drivers' hours and the action he had taken to prevent a recurrence of the issues in future.

The Licence Holder explained that many of the offences related to him taking the vehicle home and he had understood that he did not need the tachograph for this purpose. He admitted that boundaries had been pushed, but people had not done vastly more hours and nobody had been forced to do it. He had had an audit undertaken and resolved the issues. His punishment was not indefinite and it had been acknowledged that the problems had been rectified. He would employ a Transport Manager once the business got going again, and was now using specialist software to manage his operations that would not allocate drivers to jobs if they were on their hours or allocate vehicles unless defects had been properly signed off. He considered that processes were in place and one of the main focuses was safety. He outlined the hours worked by his employee.

The Licensing Enforcement Officer asked the Licence Holder how the removal of his professional licence would affect him, and whether he had any private contracts with schools.

The Licence Holder replied that he would be devastated, but the winter months were quieter anyway and there was a need to build the programme for next year. He

stated that action had been taken on only six offences and not 41. He did not have any school contracts at the moment. The company had been removed from the list for school runs due to parent perception, but was still permitted to do educational visits.

There being no further questions, the Legal Advisor reminded the Sub-Committee that the reason for the hearing was to review the two NNDC licences, and each review should be considered on its own merits. The Legal Advisor referred the Sub-Committee to the Council's Hackney Carriage and Private Hire Policy and Handbook, namely, Annex B – 'Guidelines Relating to the Relevance of Convictions.' The Legal Advisor explained that there was no power of immediate revocation and the Licence Holder could continue to hold his licences during the 21 day appeal period. She advised that Members cast from their minds the recommendation made by the Licensing Enforcement Officer in her report and determine these matters on facts and evidence.

The Licence Holder apologised again, and pointed out that the action taken against him had been regulatory and no criminal action had been taken.

The Sub-Committee retired at 10.58 am and returned at 1.10 pm.

The Legal Advisor stated that she had advised the Sub-Committee during its deliberations that in terms of the Private Hire Vehicle Licence it should consider matters relating to the vehicle (size, specification, mechanical condition etc.) and that it could also take into account the suitability of the vehicle proprietor. In respect of the Operator's Licence, the Sub-Committee should consider whether the licence holder is fit and proper and the Legal Advisor referred to the test used for drivers. In relation to Operators the test is, "Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes."

RESOLVED

- 1. That no further action be taken in respect of the Private Hire Operator's Licence, but that the following additional condition be attached:**
 - The Licence Holder must make his operating systems and supporting documentation available for inspection by the Council as and when required during the next 12 months. The operating systems must demonstrate that the Licence Holder is operating the business in a professional and safeguarding manner and that there are systems in place for reserve drivers and to cover any absences by their regular driver.**
- 2. That no action be taken in respect of the Private Hire Vehicle Licence.**

The meeting ended at 1.20 pm.

Chairman

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LICENSING SUB-COMMITTEE

Minutes of the meeting of the Licensing Sub-Committee held on Monday 15 November 2021 at the Council Chamber - Council Offices at 10.00 am.

Committee Ms E Spagnola (Chairman) Mr T Adams
Members Present: Mr N Pearce

Officers in Attendance: Public Protection & Commercial Manager, Trainee Solicitor and Democratic Services Manager
Trainee Solicitor - observer

1 TO RECEIVE APOLOGIES FOR ABSENCE

None.

2 ITEMS OF URGENT BUSINESS

None.

3 DECLARATIONS OF INTEREST

None.

4 EXCLUSION OF PRESS AND PUBLIC

RESOLVED

That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A (as amended) to the Act.

5 (WK/210013688) – APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLES IN NORTH NORFOLK

Present: Licence Applicant

The Members of the Panel and Officers introduced themselves.

The Legal Advisor outlined the purpose of the hearing and explained the procedure for the meeting.

The Public Protection & Commercial Manager presented the report, which related to an application for a 'Licence to Drive Hackney Carriage or Private Hire Vehicles in North Norfolk'. She explained that the application had been received on 4th October and that the process required the Council to consult with other relevant authorities. A Disclosure Barring Service report had subsequently been received in respect of the applicant, which contained details about the applicant which merited further consideration. She concluded by saying that she couldn't see any other contra information,

The Chairman invited the Panel to ask questions of the Public Protection &

Commercial Manager. Cllr T Adams referred to page 10, point 10 of the reports pack and asked whether all of the required supporting documentation had been received as the checklist had not been completed. The Public Protection & Commercial Manager confirmed that it had all been received and said that the application would not be deemed valid otherwise.

The Chairman queried why the expiry date for the applicant's driving licence was so soon. The Public Protection & Commercial Manager replied that it was because it was a photo-card and they needed to be renewed every 10 years and the applicant's was close to the expiry date.

The applicant was then invited to present his case to the panel. He said that he had been sleeping in the car when the Police knocked on the window and woke him up. The car engine was running as it was cold outside.

Cllr N Pearce sought confirmation that the applicant had been drinking prior to sleeping in the car. The applicant confirmed that he had.

Cllr Adams referred to page 8, section 8 of the reports pack which had inconsistent responses. At section 1, the applicant had stated that he had never been convicted of an offence, yet at section 6 he had confirmed that he had been disqualified by a court form holding a driving licence. Cllr Adams asked the applicant whether the form contained mistakes. The applicant confirmed this was possible. In response to a further question from Cllr Adams as to whether he had ongoing drinking problems, the applicant stated that he did not. He added that this was one incident and had not happened again.

The Chairman asked the applicant to clarify whether he had given a breath sample when the police asked him to. He replied that he had. Cllr Pearce asked whether he had given a further sample at the police station when requested to and the applicant replied that he had not. The Public Protection & Commercial Manager reminded those present of the offence as stated on the DBS summary sheet. Cllr Pearce commented that it was clear from the applicant's responses, whether a sample had been given or not.

Cllr Adams asked the applicant to confirm his current place of work. The applicant provided a response and said that he was seeking alternative work due to an ongoing shoulder injury. He confirmed this injury did not prevent him from driving.

Cllr Pearce asked the applicant if he had learnt from what had happened and if he was remorseful. The applicant said that it had not happened again and he understood the gravity of the situation.

The Panel retired at 10.50am and returned at 11.54am.

The Chairman read out the decision to the applicant and explained that the Panel had regard to the safety of the public which they considered to be paramount. The Panel considered that public protection was the over-riding consideration when granting a taxi licence in North Norfolk and were of the view that the applicant did not understand the gravity of his previous offence. In addition, the Panel was concerned that the applicant had declared on the licence application form that they had not been convicted of any offences when the Disclosure Barring Service report results confirmed that he had. The Panel was concerned that the Applicant may have made a false declaration for the purposes of obtaining a taxi licence. The Panel agreed that a taxi drive must not be dishonest.

In conclusion, the Chairman said that having considered the relevant written and oral evidence before it, the sub-committee deemed that the Applicant was not a fit and proper person to hold a tax licence.

RESOLVED

That the licence is REFUSED

The meeting ended at 11.56am

Chairman

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LICENSING SUB-COMMITTEE

Minutes of the meeting of the Licensing Sub-Committee held on Wednesday, 26 January 2022 at the Council Chamber - Council Offices at 11.30 am

Committee	Mr H Blathwayt (Chairman)	Mr P Fisher (Item 6)
Members Present:	Mr N Lloyd (Item 5)	Mr J Rest

Officers in Attendance:	Licensing Enforcement Officer Trainee Solicitor Democratic Services Manager Democratic Services Officer (Regulatory)
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1 TO RECEIVE APOLOGIES FOR ABSENCE

None

2 ITEMS OF URGENT BUSINESS

None

3 DECLARATIONS OF INTEREST

None

4 EXCLUSION OF PRESS AND PUBLIC

That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 1 of Part I of Schedule 12A (as amended) to the Act.

5 (WK/210014927) - REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLES IN NORTH NORFOLK

Present: Licence Holder and their Partner.

The Members of the Panel and Officers introduced themselves.

The Legal Advisor outlined the purpose of the hearing and explained the procedure for the meeting.

The Licensing Enforcement Officer presented the report, which related to a review of a Private Hire Operator's Licence and Private Hire Vehicle Licence.

In response to questions by Cllr N Lloyd, the Licensing Enforcement Officer advised that there was no time limit for information and evidence which may be presented to aid the local authority in determining the suitability of an individual to hold a taxi license.

The Licence Holder was invited by the Chairman to make his statement. He commented that the 2013 complaint related to a malicious report from a previous partner, and that he was unable to confirm the accuracy of the 2016 complaint, however did not dispute the complaint due to a lack of evidence. The Licence Holder provided evidence to the Panel, attesting to his actions with relation to the 2021 complaint, including character references, photos of his diary and ledger book as well as a digital record of his movements, and asserted the 2021 complaint did not accurately reflect his daily taxi records.

The Licensing Enforcement Officer confirmed she had not had prior sight of any documents, statements of support or evidence supplied by the License Holder at the meeting. The Panel advised they would reflect on any new evidence when they retired to consider the matter in private.

Following questions from Cllr J Rest, the Licence Holder advised that he had not operated any other taxi in 2021, not had he worked for another organisation.

Cllr N Lloyd questioned if the 2021 had been an existing customer. The License Holder commented he first met the 2021 complainant sometime after the complaint was alleged to have taken place, which could be corroborated with his daily taxi record. He advised that he had been interviewed by the police regarding the allegation, and that there had been no further investigation or action. The Licensing Enforcement Officer advised she was unaware that no further action had been taken.

The Chairman asked the Licensing Enforcement Officer as to the condition of the License Holders records, who responded that the License Holders records were neat and well-maintained, and noted the inconsistencies between the 2021 Complaint and the License Holders diary.

The Chairman asked the License Holder about the 2013 complaint. The License Holder commented that the complaint related to an ex-partner and that he had met with the Council at the time to discuss the matter, which had not called to a meeting of the Licensing Sub-Committee.

Cllr J Rest asked the License Holder whether he had surveillance equipment in and on his taxi. The License Holder advised he did not have any, but that he would be willing to put CCTV equipment in the vehicle, noting the vulnerability of taxi drivers to be able to verify their version of events.

The Panel retired at 12.00pm and returned at 1.05pm.

The Chairman read out the decision to the License Holder and explained that the Panel considered the 2013 and 2021 complaints against the License Holder and placed considerable emphasis in respect of the protection of the public and in particular vulnerable taxi passengers. It was reiterated that safeguarding is the utmost priority for the Licensing Sub-Committee and the Council more broadly as a licensing authority. The Panel acknowledged that the Police, after interviewing the Licensing Holder, did not find need for further investigation, and the burden for the Police with respect of criminal complaints is higher than that of the Panel.

The Panel had due regard to submissions by the Licensing Officer, and acknowledged that the License Holders records were kept to a high standard, and that the 2021 complaint did not reflect his prior written taxi records.

In conclusion, the Chairman stated, having considered the relevant written and oral evidence before it, the Sub-Committee deemed the License Holder to be a fit and proper person to hold a taxi license. The Sub-Committee recommended to the License Holder the proper use of surveillance in and on his taxi.

RESOLVED

No further action to be taken

The Panel retired at 1.13pm and returned at 1.41pm

6 (WK/210014393) - APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLES IN NORTH NORFOLK

Present: License Applicant, their Legal Representative (LALR) and two witnesses.

The Members of the Panel and Officers introduced themselves.

The Legal Advisor outlined the purpose of the hearing and explained the procedure for the meeting. It was agreed with the Panel to permit the individual witnesses to make their representations at the hearing in turn, and that they would be invited into the meeting for this purpose only.

The Licensing Enforcement Officer presented the report, which related to an application for a 'License to Drive Hackney Carriage or Private Hire Vehicle's in North Norfolk'. She detailed the application received on 21st October 2021 and the process required the Council to consult with other relevant authorities. A Disclosure Barring Service report had subsequently been received in respect of the Applicant, which contained details about the Applicant which merited further consideration. It was noted that this was the second application for a license made by the Applicant, having previously been refused by the Licensing Sub-Committee in May 2020.

The LALR, on behalf of the Applicant, made a representation to the Panel. He referred to his client's previous application and subsequent refusal, and advised that character reference statements and representations from two independent persons were available for the Panel to aid with their assessment whether the Applicant was a fit and proper person to hold a license, which were not available at the previously held Sub-Committee hearing in May 2020. The LALR commented on the historic nature of the offending and that his client had reformed his character and behaviour. He added, that through his client's second application for a taxi license he had demonstrated a real commitment to the occupation.

At the discretion of the Chairman, the LALR asked his client a series of questions relating to the background to his convictions which had occurred when he was a minor. The Applicant explained the difficult circumstances that occurred before he was 20 years old which had resulted in him fitting in with the wrong crowd and led to a series of offences. He outlined the changes which had enabled him to turn his life around for the better including having a stable family life. He explained that an injury had left him unable to continue in his previous employment and now wanted a job that did not put too much strain on his body. He stated he enjoyed driving and was a good and competent driver and would like the opportunity to make a living out of this.

Cllr J Rest asked a series of questions to the Applicant relating to his medical condition, employment status, and whether he had an offer of employment if granted a License. The Applicant advised his medical condition did not restrict him from driving and that both the DVLA and his insurance provider were aware of his medical condition. He commented that he was currently self-employed, and that he had a verbal offer of employment from a taxi operator should he be successful in obtaining a License, though nothing in writing.

Cllr P Fisher asked how the Applicant would deal with difficult customers. The Applicant advised he lived in close proximity with a pub, and was used to interacting with intoxicated individuals who he had to, from time to time, ask to be quiet or to move on. As with these interactions he commented that he would treat all customers with kindness and respect, and address matters in a logical and polite way, affirming he could manage challenging interactions.

The Licensing Enforcement Officer sought further clarification over the Applicants medical condition, and if improvements could be made. The Applicant advised he was in consultation with his doctor, and detailed treatment options.

Witness 1 called to the hearing at 2.24pm

The Panel asked the witness to verify their statement, and the nature of their relationship with the Applicant. The witness confirmed he had previously employed the Applicant, and spoke positively of both the Applicant as an individual and of the quality his work. He added that he would be happy with the Applicant driving both him and his family.

Witness 1 left the hearing at 2.29pm.

Witness 2 called to the hearing at 2.30pm.

The Panel asked the second witness to verify their statement and the nature of their relationship with the Applicant. The witness commented that she did not drive and had relied on the Applicant to drive her to appointments. She commented she had known the Applicant for many years and commended the Applicant on his change of character, and of his maturity.

Witness 2 left the hearing at 2.35pm

The Chairman asked the Applicant about his drug conviction. The Applicant advised he had not consumed drugs in many years, nor did he have any inclination to do so. He commented that this had been reflected in medical tests undertaken by his previous employer, and in his applications for a taxi license.

The LALR noted the willingness of the witnesses to take time out of their day, at very short notice, to speak on the exemplary character of his client. He commented that his client did not appear on the restricted list for the Disclosure Barring Service, as this would have appeared in the enhanced certificate. The Licensing Enforcement Officer confirmed that the Council check both barred lists.

The LALR referred to the NNDC Taxi Handbook, Section 20.2 "Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly" and noted of his clients commitment to pursue this occupation.

The Panel retired at 14.45 and returned at 4.05pm.

The Chairman recited the decision notice to the License Applicant and explained that the Panel considered the Applicants previous convictions, and although convictions are never considered spent under taxi licensing regime, the Panel acknowledged the Applicant appears to have truly reformed his character and behaviour over multiple years.

The Panel acknowledged the 2019 speeding offence and had reviewed the North Norfolk District Council, Hackney Carriage and Private Hire Policy and Handbook for guidance. The Panel noted that the Applicant had not received more than 2 motoring convictions within the last two years and were satisfied the Applicant was a sound and responsible driver.

The Panel were concerned about the Applicants medical condition, as this was a long standing issue which had prevented him from particular strenuous jobs. Following questions over the impact of his condition, the Panel were satisfied that the Applicant is appropriately insured, seeking medical treatment to resolve the issue and that the DVLA medical is suitable.

The Panel considered the weight of the five written and signed statements attesting to the high level of trust those individuals had in the Applicant, of his positive character and reformed nature.

The Chairman concluded, having considered the relevant written and oral evidence before it, the Sub-Committee deemed the Applicant to be a fit and proper person to hold a license.

RESOLVED

That the license be GRANTED.

The meeting ended at 4.17 pm.

Chairman

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LICENSING SUB-COMMITTEE

Minutes of the meeting of the Licensing Sub-Committee held on Wednesday, 16 March 2022 at the Council Chamber - Council Offices at 10.00 am

Committee Mrs P Grove-Jones (Chairman)
Members Present: Mr P Fisher
Mrs G Perry-Warnes

Officers in Attendance: Licensing Enforcement Officer
Environmental Health Officer
Legal Advisor
Democratic Services Manager
Democratic Services Officer – Regulatory

Also in attendance: PC Chris Brooks – Norfolk Constabulary Licensing Officer

1 TO RECEIVE APOLOGIES FOR ABSENCE

None.

2 DECLARATIONS OF INTEREST

None.

3 ITEMS OF URGENT BUSINESS

None.

4 APPLICATION FOR A NEW PREMISES LICENCE - LILY-MAI'S BAR GRILL COCKTAILS, NEW STREET, CROMER, NORFOLK, NR27 9HP

The Chairman, Members of the Panel and Officers introduced themselves.

The Legal Advisor outlined the purpose of the hearing and explained the procedure for the meeting, and confirmed that the decision notice would not be issued that day, but would be supplied within 5 working days by email.

The Licensing Enforcement Officer presented the report, and affirmed that a valid application for review to the premises license had been received from the Environmental Protection Team, details of which were contained in Appendix A, Pages 23 -26 of the Agenda Pack. She informed Members that grounds for the review were based on the playing of amplified music to excessive levels, statutory nuisances which had been witnessed, and a breach of an abatement notice. A copy of the abatement notice was available on page 38 of the Agenda Pack. The Licensing Officer confirmed that the author of the review, the Environmental Health Officer was present for meeting, as was PC Brooks of the Police Licensing Team who had supported the review.

The Licensing Officer affirmed the current permitted operation times as allowed under the premises license and that the license permitted for films, indoor sporting events, live music, recording music, entertainment similar to live and recorded music, as well as the selling of alcohol on and off the premises.

The Licensing Officer stated that the license was subject to the mandatory

conditions as listed on pages 4-6 of the Agenda Pack. The license was also subject to conditions relevant to its operating schedule as detailed on pages 6-8 of the Agenda Pack, including that the designated premises supervisor or the licensee shall ensure that no nuisances caused by noise emanating from the premises or by vibration transmitted through the structure of the premises, external windows and doors must be kept closed, prominent clear notices shall be displayed at all exits requesting customers respect the needs of local residents and to leave the premises and area quietly. The premises license permitted additional hours for specific dates including New Year's Eve, Burns Night, Valentine's day and others.

The Licensing Officer advised that comments had been received from responsible authorities as detailed in Appendix B, and that the Police's representation could be seen on page 50 of the Agenda Pack. Representations from other interested parties had also been received which were detailed on pages 53 and 54 of the Agenda Pack.

She stated that the Authority had properly discharged its responsibility for advertising the review, and that the public notice had been displayed on the premises until 15th February 2022, which was the end of the public consultation period whereby the Authority could accept representations in support or in objection of the review.

The Licensing Officer advised Members the options available to them in determining the application, such options included revoking of the license, removal of licensable activities from the license in order to promote the licensing objectives, subjecting the license to further conditions to promote the licensing objectives, refusal of the review application and to take no further action, or any other action which the sub-committee deems necessary.

The Chairman confirmed if the attending Officers or Committee Members had any questions, before inviting Mr Hubbard, the Premises Owner to speak.

Mr Hubbard reflected on the Police Report supporting the review and noted the incident which occurred on 24th October 2020. He disputed that the events detailed had anything to do with his business and considered the fight to be an overspill from the Wellington Public House. He affirmed that after the fight broke out that he closed his doors and sent his staff home so that they would not be involved. Mr Hubbard stated that he spoke with the Police that evening, who asked to see his CCTV. Mr Hubbard advised the Panel that his property is located by the North Sea and that the weather affects the reliability of his cameras, he affirmed that the camera footage requested was unavailable for the 24th October. He stated that on average, 4 days out of 7 the CCTV cuts out, and that the CCTV was wired in 12 years ago and so was not up to spec. Mr Hubbard stated that this was explained to the Police 5 times over the course of several days, and that he did not wish to act as a witness as the events did not concern him or his business. Mr Hubbard acknowledged that conversations did get heated with the Police, and whilst he did become vocal, he considered that the Police Report was inaccurate and did not reflect that the Police had pinned a member of his staff in the corner by the CCTV recorder, requesting access to footage. Mr Hubbard advised he asked the Police to leave his property, and stated that they did not have a warrant for his CCTV, and he was not under investigation for this.

Mr Hubbard noted the events of 20th November 2021 in which an incident took place on the premises. He affirmed that he and his brother had escorted 'Polish' away from the property and that he did not call the Police at the time, as he considered the

matter dealt with. Mr Hubbard stated that the events which occurred 3 hours later had nothing to do with his business, as the overspill event was not near his premises and therefore this incident should not be considered in reviewing his premises license. He commented that he had discussed these events with the Police and invited them to view his CCTV which was available for 14 days, but that the Police had failed to attend within that 14 day period. Mr Hubbard considered that a public CCTV system was needed within Cromer Town, but that the responsibility should not fall on individual businesses to provide this.

Mr Hubbard informed Members that he worked 7 days a week, across all areas of his business, and that he was a very hard working individual. He stated that he felt victimised by the inclusion of the Police reports, and disputed their accuracy which did not include the 4 times when he had offered assistance to Norfolk Constabulary. He affirmed that he did not have the money to upgrade his CCTV, and that this would be very expensive.

Cllr G Perry-Warnes asked Mr Hubbard for his comments on the noise issues and the abatement notice served in 2018.

Mr Hubbard confirmed that the rules had been considerably broken, and that he worked with the Environmental Health Officer and had accepted a caution. He reflected that the incident which took place in October 2021 was when he was away for the weekend, and that it was his staff who had broken the rules which he was made aware of on his return. He confirmed that the member of staff was fired for these events.

He confirmed that Lily-Mai's Bar and Grill was a family friendly business, and it was not a nightclub or pub. He stated that reports of noise disturbances from 5pm for 10 days straight were incredibly incorrect, and that he evidence of his staff's signing in times which would corroborate this. He reflected that he had not had a live band or a DJ play at the property for years and did not consider his music system to be so loud which it would result in the shaking of walls above, and that this would run counter to the family friendly environment he had worked to create.

Mr Hubbard reflected on the complaints received from members of the public, and affirmed that he was familiar with the authors and had a history with them. He stated that one of the complaints came from a neighbouring resident who does not live in the building, but a nearby building, and that she was a very unpleasant individual. Mr Hubbard commented that he had worked with NNDC Officer Richard Crabb about issues relating to the bins, and that he and his staff pressure wash the area every Friday after the bins were emptied, and that these bins are used by his business, and the nearby ice cream shop and residents. Mr Hubbard commented that he also cleans the windows of the complainant, but that the author had failed to note this. He stated that the individual had been verbally abusive to him and his staff, and that if he had raised his voice at her, it was simply in defence of his young staff who had been left in tears by the way in which they had been spoken too. Mr Hubbard considered the incident of criminal damage which took place in September, and in which his time and money remedied the problem, and that he was helping the community. He considered that the individual did not wish to move with the times and that their complaint should be disregarded as it had nothing to do with the noise or nuisance and it was simply a personal vendetta against himself.

Cllr G Perry-Warnes asked if the individual had ever threatened to close down the business. Mr Hubbard advised that she had never stated this directly and her wording was 'a wish' that the business closed down, and that he would 'disappear'.

Cllr P Fisher asked for a representation from PC Brooks further to his report.

PC Brooks advised he as licensing officers only deals with premises reports and cannot answer questions about other Cromer that may or may not have been committed in Cromer. PC Brooks confirmed with Mr Hubbard the irregularities with his CCTV. PC Brooks commented on the incident which took place on 20th November 2021, and affirmed that Mr Hubbard understood the four licensing objectives, one of which is assist the police prevent crime and disorder, that Mr Hubbard had offered assistance with CCTV prior, and had a good working relationship with PC Smith and PC Mezetti. PC Brooks advised that the Police would like to see the CCTV condition added would be to provide a level of consistency of the support to help promote the crime and disorder licensing objective. He advised that the CCTV whilst it was provided often, it was only when it suited.

Mr Hubbard disputed PC Brooks assessment and stated that he would only involve himself if it affected him or his staff, and he did not wish to get dragged into other matters as it could get messy.

PC Brooks advised that it is expected that as a license holder to help promote the crime and disorder licensing objective, irrespective if inside or outside the premises, and it was about keeping the peace in Cromer.

Mr Hubbard affirmed that Cromer Town should look at having a CCTV, and that it would around £5,000 for his business to upgrade their CCTV infrastructure to the level requested by Norfolk Constabulary.

PC Brooks advised in the reports provided to him that Mr Hubbard had been inconstant in his approach to providing CCTV. Mr Hubbard advised there had only been one occasion in 12 years where he refused to provide CCTV to Norfolk Constabulary.

The Chairman invited the applicant, the Environmental Health Officer to make their representation, who advised that incidents had been witnessed by Council Officers, and determinations were made not solely on the submissions made by members of the public. He noted that there had been errors made with respect of call handling in late 2021 which had resulted in being unable to prove timings of specific events. He advised that an abatement notice had been served in 2018 following a series of incidents which he had witnessed and that there had been an opportunity for the license holder to develop a scheme with the Council in 2018 to mediate issues, however the license holder did not follow this up and no formal written agreement was ever made. As such the abatement notice was still in effect.

Mr Hubbard agreed with the Environmental Health Officer representation, and commented that he did not follow up on the matter as work got in the way and it had slipped his mind and stated he took the caution on the chin.

The Chairman asked Mr Hubbard about his capacity for seating. Mr Hubbard affirmed that he could accommodate 130 people at any one time and this figure also included staff, for events he could accommodate 80 people including staff. Mr Hubbard questioned why those figures were varied. The Licensing Officer advised figures would have been determined from the fire risk assessment, and that the one in place when the license was agreed was dated from 2005. She advised the License Holder that figure would be valid until such time that it had been requested to be varied or removed, and had been subsequently reviewed. In response to

further questions from the Chairman, Mr Hubbard affirmed he had not received any questions from Norfolk Constabulary about the premises capacity. PC Brooks confirmed that to his knowledge the capacity at Lily-Mai's had not been an issue.

Cllr G Perry-Warnes asked how it could be determined that the noise was originating from Lily-Mai's and not from neighbouring properties which have licensable activities. The Environmental Health Officer noted that the most vocal complainant lived within the same building and confirmed that when Officers had attended in 2016, 2018 and 2020 that the noise was originating from the premises, and that vibrations had also been felt by Officers in attendance.

The Legal Advisor stated that she understood Mr Hubbard's frustrations regarding the noise complaints and affirmed that only evidence which had been provided to the Council could be considered by the sub-committee and form part of their determination. She asked Mr Hubbard to confirm how many nights a week was music played. Mr Hubbard advised that ambient music was played 7 days a week, from the time the business opened and closed, and that previously there had been music played on Friday and Saturday nights till 1pm, but not since November following receipt of the caution. He stated that his business closed around 11.30-12.00pm every weekend and that this had a knock on affect to his business.

The Legal Advisor enquired what other recommendations the Environmental Health Officer had which would cost effective, taking into account the size and location of the business which would reduce the noise emitting from the premises. The Environmental Health Officer confirmed that an agreed noise level for music could be set formally as a condition of a license. That the venue could have their hours reduced; though accepted that this had appeared to have been addressed informally by the premises holder already, and that a reduction in hours would decrease opportunity for disturbances. He considered it would be justifiable placing a condition setting what time music could be played at the venue to around midnight, which live music being reduced to 11.00pm. He stated that the recommendations presented to the sub-committee were as a result of this matter occurring on and off over the course of 6 years and it was a balance between meeting the needs of the business and the residents. The Environmental Health Officer affirmed he did not want the business to close, or to remove the license. He recommended a reduction in special days in which additional hours were permitted, but that New Year's Eve should remain, which would help find the balance with the residents and the business.

The LA asked what sound proofing measures and technology could be introduced internally which would reduce noise. The Environmental Health Officer stated that there were various methods which could be introduced including sound proofing following analysis from an acoustic expert, relocation of speakers to ensure they were not attached to structural elements of the building, and a reduction in the bass level.

The Chairman asked the License Holder about their clientele around evening meal and up till 9pm. Mr Hubbard commented for the bar area that the average age of his customers was between 20-40 years old, but that his bar was very quiet between 9 – 11pm as individuals were often at other venues nearby which had a live band

The Chairman reflected that in many instances it was the thumping bass which was most problematic and that an agreement needed to be reached on this matter. Mr Hubbard stated that the speakers in Lily-Mai's had been relocated in 2017, following advice from the Environmental Health Team and the bass turned down. He stated that in January 2022 a new sound system was in place. He commented that there

had only been one complaint about noise which exceeded the permitted time, and that the two residents who had complained have relocated or will soon be relocating.

The Environmental Health Officer stated that the Council only would respond to events following a complaint, and that the last complaint received by the Council was in December 2021 about the noise. He affirmed that if there were no further complaints, there would be no further investigation. He advised that the Enforcement Action was based on what the Environmental Health Team had observed, and that even if the residents left it should not be assumed that this matter was concluded there was a potential that that this may occur again. The Environmental Health Officer stated timing did not necessarily come into nuisance legislation, and just because a noisy event occurred within licensed hours, does not supersede the fact a nuisance was caused.

Mr Hubbard sought confirmation that there had been no complaint made about New Year's Eve 2021, as he had an altercation with a local resident about noise. He affirmed his business was shut and that the noise would have come from the Wellington Public House. He expressed his concern having received a caution that his business would be subject to petty complaints from residents. He commented that the music coming from the Wellington was so aggressively and excessively loud that he could feel the walls of his office shake, but that he did not bat an eye lid at such events. He was frustrated that events were attributed to him which were not coming from his business.

The Environmental Health Officer commented that the complaint about NYE had been referred to by Mr Hubbard and that no one else had contacted the Council. He stated that the Council could not stop individuals from submitting complaints, and that the public were entitled to do so. The Environmental Health Officer re-iterated that enforcement action would only be taken based on evidence. If it were considered that the complaints were vexatious and may be considered as harassment, this would be matter for Norfolk Constabulary. The Environmental Health Officer noted that once an abatement notice had been served, a single complaint would be enough to warrant investigation. Without an abatement notice, before 11pm 5 calls would be required, after 11pm, only 3 calls were required.

The Chairman asked the License Holder when his business was most busy. Mr Hubbard advised this was around 10.45 – 11.00pm when individuals left the Wellington and Kings Head Public House's as they called last orders. The influx was around 30 -35 people, and that last orders were called around midnight.

Cllr G Perry Warne enquired if the Wellington had been investigated on the basis of the complaint. The Environmental Health Officer stated that no formal complaint had been received as such the Wellington had not been investigated. Mr Hubbard commented that he did not wish to submit a formal complaint.

The Chairman invited the witnesses to make their representations. The first witness, Michelle commented that mistakes had been made by Mr Hubbard, and that he had owned up to these, but that the complaints against him were both targeted and petty, and considered that officers had been called in for little things. He determined that no other business in Cromer was subject to the same level as scrutiny as Mr Hubbard. She reencountered events which took place outside the Wellington Pub at 11pm on Saturday night where the noise level emitting from the venue was excruciatingly loud, and she sympathised with residents' complaints about noise.

In response to questions from the witness, the Chairman advised that the Licensee

was supposed to ensure that individuals attending their premises were not so incapacitated that they could not walk home as a result of consuming alcohol, and that once a person has left the premises and were considered to be okay, but then were involved in a brawl, this was not the responsibility of the Licensee. PC Brooks stated that a License Holder was only responsible for their customers and the curtilage of their building. Allowing customers to get in such a state that they are aggressive and leave the venue and become a problem elsewhere, can come back on the License Holder.

The second witness, Mr J Hubbard asked for clarity about what could be considered an ambient noise level. The Environmental Health Officer advised this was considered to be a general background noise and was open to interpretation, certainly if the music could be heard in another premises or would vibrate the walls it was considered to be too loud. A statutory nuisance was not defined at a set decibel level, and each case would be considered on its merits. 30 decibels was considered to be the appropriate maximum noise level for a bedroom, as specified by the World Health Organisation, and that Officers had experience noises well above this level originating from Lily-Mai's in the bedrooms of neighbouring properties.

Mr Hubbard invited the Environmental Health Officer to attend his premises at its busiest time to establish an agreed level of ambient noise which should not be exceeded. He acknowledged this could have been done sooner, but that his previous business model meant that his business was very quiet in the evenings, and this was subject to change. The Environmental Health Officer affirmed that such agreement would need to be agreed with by all parties, which would establish a set limit. He advised that he considered this to be a condition of the License, else it not be tied to a formal agreement.

Mr Hubbard expressed his concerns with the other considered conditions set out by the Environmental Health Officer including that or a doorman, which he considered to be an unnecessary cost. The Environmental Health Officer reflected this condition was due to complaints of rowdiness and letters detailing vomiting within the doorway. Mr Hubbard stated that there was no evidence that this originated from his premises and not one of the nearby pubs, and that comments about 'smashed glass' could not be attributed to Lily-Mai's as they had used plastic cups for many years in attempt to cut back costs.

Cllr G Perry Warnes asked Mr Hubbard about his challenging interactions with others. Mr Hubbard stated he had tried to work with residents, and wanted to seek common ground and engage with residents, affirming that he was a very fair person. He commented that he had previously had an issue with a member of the environmental health team but had since apologised and not gets on very well with them. He stated that he did not want to lose his business, having spent £155,000 on recent refurbishments. Mr Hubbard acknowledged that he had made mistakes, and that having brought the business at 24 it had been a steep learning curve but that he had both learnt and adapted. He affirmed that he is a good employer and that he had employed many young people from difficult backgrounds, giving them an opportunity to make something of themselves. He stated that he wanted to do the right thing, both by nearby residents and the town, and that he did not consider there would be issues going forward.

The Chairman invited closing statements from all parties.

PC Brooks stated that he understood that incidents reported had been disputed by Mr Hubbard. He advised that the request from the Police for an adequate CCTV

provision was to aid with the prevention of crime and public disorder.

Cllr G Perry-Warnes enquired why Norfolk Constabulary were asking for 28 days of CCTV be available, and why the 14 presently available was not considered to be sufficient. PC Brooks advised that it was home office guidelines that CCTV footage be available for a month.

The Environmental Health Officer reflected on the historic complaints and that issues had been ongoing for 6 years coming in peaks and troughs. He considered that assurances were needed from the Licensee which would balance the needs of the business and neighbouring residents. He affirmed that the Council had not targeted Lily-Mai's and had been responding to complaints received.

The 2nd witness, Mr J Hubbard surmised that the Police had been aggressive and assertive with regards to their interactions about the CCTV. PC Brooks commented that Police requests for CCTV were not on a whim and that there needed to be consistency in the approach. He considered that by having CCTV in place this would serve as a better deterrent in preventing crime and disorder, and serve as a reassurance to staff and customers, than a compared doorman. PC Brooks accepted that Mr Hubbard's relationship with officers was different depending on the officer.

Mr Hubbard concluded that there were many issues with the Police representation, and reiterated that the Police did not obtain CCTV footage for the incident in November 2021 despite it being offered, and that the version of events reported were inaccurate. He affirmed that he did agree with the proposed conditions surrounding CCTV and stated that the Wellington did not have CCTV outside their premises even though they had more altercations outside their business. He did not consider that the burden should fall on him, he commented that there should be CCTV throughout Cromer Town funded by NNDC. Mr Hubbard commented that he did not have the spare funds to spend on upgraded CCTV at this time. He considered that the police had discriminated against him by sending four officers to his premises during opening hours and that this had been based on his gender and appearance, and stated that PC Barnes had been particularly unprofessional towards him and had failed to treat him like a human being during some of their altercations. Mr Hubbard stated if he raised his voice in front of his customers that it was his choice as a business owner, but that he should not expect such behaviour from Police officers who arrive unexpectedly during busy business hours.

Cllr G Perry-Warnes asked Mr Hubbard to clarify his statement in refusing to supply CCTV for 28 days, if this were a condition. Mr Hubbard stated that he did not feel it appropriate that cost should be incurred to him. He was happy for his hours to be reduced, and understood that the Sub-Committee may decide to revoke his license and he would need to deal with this.

The Licensing Officer reiterated Members were present to review a premises license as set out under the Licensing Act 2003, and that the application was brought by the Environmental health Officer not the Police who had merely supported the application for review.

The Legal Advisor explained how the determination of this application would be conducted and her role in assisting with the formulation of facts and reasoning. She set out the advice she would give to the Sub-Committee to deal with the application impartially and on its individual merits, to consider only the representations that related to the promotion of the four licensing objectives. The Legal Advisor affirmed

that significant weight should be given to the representations made by responsible Authorities in this case the Environmental Health Officer and Norfolk Constabulary.

The Sub-Committee retired at 11.56am.

RESOLVED

That the following additional conditions be imposed to the Premises License:
Condition 1 - That the Noise Level agreed by the Environmental Protection Team is to be used to control all music at the Premises at all times.

Condition 2 - That the residents of 1-10 Regency Flats, Cromer are given a minimum of seven days' notice of any special event taking place at the Premises. For the avoidance of doubt, a special event will include all notable dates and any event that is advertised as taking place at the Premises.

Condition 3 - That an allowance of one additional hour for licensable activities on certain notable dates of the year to include:

- 1. New Year's Day (1 January); and**
- 2. Cromer Carnival Weekend (no set date) Friday – Monday inclusive.**

The Sub-Committee agreed to vary the existing Premise Licence to remove condition LIH007. This being the condition allowing additional hours on certain notable dates of the year.

The Sub-Committee varies the existing Premises License to amend the following licensable activities:

- 1. To amend the operating schedule for all Licensable Activity on Sunday to Wednesday from 10:00 – 01:30 to 10:00-00:00.**
- 2. To amend the operating schedule for all Licensable Activity on Thursday to Saturday from 10:00 - 02:30 to 10:00 – 01:00.**

The Sub-Committee returned at 2.00pm

5 EXCLUSION OF PRESS AND PUBLIC

RESOLVED

That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A (as amended) to the Act.

6 (WK/220001399) - APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLES IN NORTH NORFOLK

Present: Licence Applicant & Regional Director for Taxi Company

The Chairman, Members of the Panel and Officers introduced themselves.

The Legal Advisor outlined the purpose of the hearing and explained the procedure for the meeting.

The Licensing Officer presented the report which related to an application for a

'Licence to Drive Hackney Carriage or Private Hire Vehicles in North Norfolk'. A Disclosure Barring Service report had subsequently been received in respect of the applicant, which contained details about the applicant which merited further consideration.

The Chairman invited the Applicant to speak. The Applicant noted that the incident took place 30 years prior when he and his wife had accommodated a family from the Netherlands for what was intended to be a short period of time. They had stayed with him for a few months during which time the Applicant and his wife covered the majority of costs, and whilst there was some monetary recompense this was not for the costs of lodging. He advised that he had paid for the couple to marry and that they had owed him money when they re-located abroad. The applicant advised he had been left with their signed child benefit as recompense but that that this was not used by the applicant. He was subsequently contacted by the DWP about the matter and was issued with a summons and fine.

Cllr P Fisher asked if there had been any further contact or problems. The Applicant affirmed that he had not spoken with the couple since he left the country. He noted that he worked in the Navy and had subsequently never been out of work, and that in his 50 years of driving he had never had an accident.

Cllr G Perry-Warnes asked if the Applicant had been a Taxi driver before. The Applicant confirmed he was currently a taxi driver in another district. The Regional Manager for the firm was invited to speak, and advised that the company was relocating all its licensable activities to North Norfolk. He confirm that the Applicant had successfully served as a taxi driver for vulnerable and special needs school children for 3 years, and that he had full confidence in the Applicant. He advised that the children had built a rapport with the Applicant and would be devastated if he were unable to continue to drive them.

The Chairman enquired how the DWP knew of the book. The Applicant commented that he was unsure, and perhaps the couple did not go abroad as intended and had applied for another copy of the child benefit book.

The Chairman sought confirmation whether the Applicant knew that this would be illegal. The Applicant advised he was unaware that it was fraudulent activity. He did not intend for monetary gain, only to re-coup fees as had been agreed upon.

The Sub-Committee retired at 2.20pm and returned at 2.35pm.

The Chairman read out the decision to the applicant and explained that the Panel had taken into account the Licensing Officer report, the Council's licensing policy, the 'fit and proper persons test' as well as the written and oral evidence put forward at the hearing. She affirmed that the Sub-Committee thank the Applicant for their attendance and his submissions and that the Sub-Committee considered the Applicant to have presented himself well during the hearing. The Sub-Committee consider the Applicant to have paid the price for his convictions and consider the applicant to be a fit and proper person to have a combined driver's license.

RESOLVED

That the licence be GRANTED.

The meeting ended at 14.37pm

Chairman

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LICENSING SUB-COMMITTEE

Minutes of the meeting of the Licensing Sub-Committee held on Monday, 11 April 2022 at the Council Chamber - Council Offices at 10.00 am

Committee

Members Present:

Mr N Pearce (Chairman) Mrs E Spagnola
Mr G Mancini-Boyle

Officers in Attendance:

Licensing Enforcement Officer
Legal Advisor
Democratic Services Officer – Regulatory

1 TO RECEIVE APOLOGIES FOR ABSENCE

None.

2 ITEMS OF URGENT BUSINESS

None.

3 DECLARATIONS OF INTEREST

None.

4 EXCLUSION OF PRESS AND PUBLIC

RESOLVED

That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A (as amended) to the Act.

5 (WK/220002614) - APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLES IN NORTH NORFOLK

Present: Licence Applicant & Regional Director for Taxi Company.

The Chairman, Members of the Panel and Officers introduced themselves.

The Legal Advisor outlined the purpose of the hearing and explained the procedure for the meeting.

The Licensing Officer introduced the application and her report to the Panel. She affirmed that as part of the application process, the Applicant was required to make disclosure of previous convictions. The Applicant subsequently disclosed one motoring offence in his application form and detailed of this were contained within Disclosure Barring Service section of the report.

Cllr E Spagnola asked about the circumstances surrounding the DUI. The Applicant explained that that he was in the process of grieving for his deceased Father which impaired his judgement in relation to consuming alcohol and operating a motor vehicle. He expressed strong remorse for his actions and stated the subsequent conviction is not indicative of his character since.

The Licensing Officer outlined that the Applicant had declared he had a DUI offence on his application form from 2018. The Applicant explained this this was a typo, and he was unsure when the offence actually occurred

The Licensing Officer noted that the Council were still awaiting both references for the Applicant, she stated that the report had been put together pending the references due to deadlines and it had been anticipated that these would be received prior to the meeting. The Applicant stated that one of his references have been busy with work and the other tried to send the reference to the Council but experienced technical difficulties.

The Chairman sought clarity if the Sub-Committee could place a condition on awarding the license for the Applicant that this be subject to the receipt of appropriate references. The Licensing Officer confirmed this was within the Members gift, this was supported by the Legal Advisor. The Chairman thanked both officers for their guidance and affirmed he was happy to proceed with the meeting without this administrative processed being concluded.

The Chairman acknowledged the difficult circumstances incurred by the Applicant and determined that it must have taken the Applicant a long time to recover from them. The Applicant advised that the drink driving incident occurred in his own time, and not whilst he was working, and that whilst he lost his position as a delivery driver, he had been retained by the same company following the loss of his license. He confirmed he had never considered drinking again following the events.

The Licensing Officer informed Members that the operations for the Applicants employer were being moved from Uttlesford to within the district, and the licenses of all vehicles and drivers were being transferred to North Norfolk. The nature of this business was primarily for school contracts and for transporting children who had learning difficulties or behavioural difficulties.

The Chairman asked the Applicant about his night time driving. The Applicant affirmed he was a competent night time driver and was used to driving on difficult, dangerous and narrow roads.

The Regional Manager, acting as a witness for the Applicant, was invited to the meeting and invited to comment.

The Regional Manager affirmed that the Applicant had been employed within his organisation for several years, and stated as an employer he had undertaken due diligence and made its own risk assessment regarding the Applicant, and were assured that he was of low risk. He reflected that the nature of the business was for the transportation of vulnerable children with difficulties to and from school. The Regional Manager advised that the contract and route which the Applicant was currently operating was in place till 2024, and it was considered to be beneficial to those children that the Applicant be able to continue his work. He affirmed that the Applicant was appropriately insured and that there had been no driving incidents since the historic DUI. He acknowledged that the driving offence was a blemish on the Applicants history, but that he was confident in the Applicant being a low risk,

with 3 years of proven experience with the company.

The Chairman thanked the Regional Manager for his representation, which he considered to serve as an active reference.

The Chairman asked the Sub-Committee if they had any additional questions and if the Applicant wished to make a closing statement.

The Sub-Committee retires at 10.35am and returned at 11.11am.

The Chairman read allowed the formal decision notice and stated in deciding the application, the Sub-Committee considered the report from the Licensing Officer, as well as the written and oral evidence put forward at the hearing.

The Sub-Committee considered the Applicant's previous conviction for driving a motor vehicle with excess alcohol, and although convictions are never considered spent under the taxi licencing regime, the Sub-Committee acknowledged that the Applicant's record since the end of the disqualification period in 2012 does not contain any additional offences, either minor or major. There is also no evidence that the Applicant has or is currently dependant on alcohol.

Reference was made to the Council's Hackney Carriage and Private Hire Policy and Handbook, namely, Annex B – Guidelines Relating to the Relevance of Convictions Hackney Carriage & Private Hire Licensing and the provisions concerning disqualification from driving following a conviction for a major traffic offence. Further to the paragraph above, this Sub-Committee notes that the Applicant has been conviction free for a period of between 3 and 5 from the restoration of his DVLA licence.

This Sub-Committee can reasonably conclude that the Applicant is currently a sound and responsible driver. The Sub-Committee values his existing work with special need school children and understand his specialist role in transporting them whilst maintain a rapport and trust with the children, school staff and their parents.

The Sub-Committee placed weight on the Applicant's remorseful stance towards his past offence and appreciated that his conduct since is reflective of this.

The Sub-Committee placed weight on the oral testimony and employer reference which provided valuable insight into the working relationship with the Applicant that had existed for three years. He emphasised that his company carries out the highest due diligence in relation to their drivers and that The Applicant's record is without blemish since his time at the Company.

The Sub-Committee considered the demeanour and conduct of the Applicant at this hearing and determined that he approached this matter with the necessary seriousness, tact and accountability which further reflect his suitability to drive a taxi in North Norfolk.

Having considered relevant written and oral evidence before it, the Sub-Committee deemed that the Applicant is a fit and proper person to hold a taxi licence as outlined above.

Accordingly, the licence is **GRANTED**.

The meeting ended at 11.20 am.

Chairman

Declarations of Interest at Meetings

When declaring an interest at a meeting, Members are asked to indicate whether their interest in the matter is pecuniary, or if the matter relates to, or affects a pecuniary interest they have, or if it is another type of interest. Members are required to identify the nature of the interest and the agenda item to which it relates. In the case of other interests, the member may speak and vote. If it is a pecuniary interest, the member must withdraw from the meeting when it is discussed. If it affects or relates to a pecuniary interest the member has, they have the right to make representations to the meeting as a member of the public but must then withdraw from the meeting.

Have you declared the interest in the register of interests as a pecuniary interest? If Yes, you will need to withdraw from the room when it is discussed.

Does the interest directly:

1. Affect yours, or your spouse / partner's financial position?
2. Relate to the determining of any approval, consent, licence, permission or registration in relation to you or your spouse / partner?
3. Relate to a contract you, or your spouse / partner have with the Council
4. Affect land you or your spouse / partner own
5. Affect a company that you or your partner own, or have a shareholding in

If the answer is "yes" to any of the above, it is likely to be pecuniary.

Please refer to the guidance given on declaring pecuniary interests in the register of interest forms. If you have a pecuniary interest, you will need to inform the meeting and then withdraw from the room when it is discussed. If it has not been previously declared, you will also need to notify the Monitoring Officer within 28 days.

Does the interest indirectly affect or relate to any pecuniary interest you have already declared, or an interest you have identified at 1-5 above?

If yes, you need to inform the meeting. When it is discussed, you will have the right to make representations to the meeting as a member of the public, but must then withdraw from the meeting.

Is the interest not related to any of the above? If so, it is likely to be another interest. You will need to declare the interest, but may participate in discussion and voting on the item.

Have you made any statements or undertaken any actions that would indicate that you have a closed mind on a matter under discussion? If so, you may be predetermined on the issue; you will need to inform the meeting and when it is discussed, you will have the right to make representations to the meeting as a member of the public, but must then withdraw from the meeting.

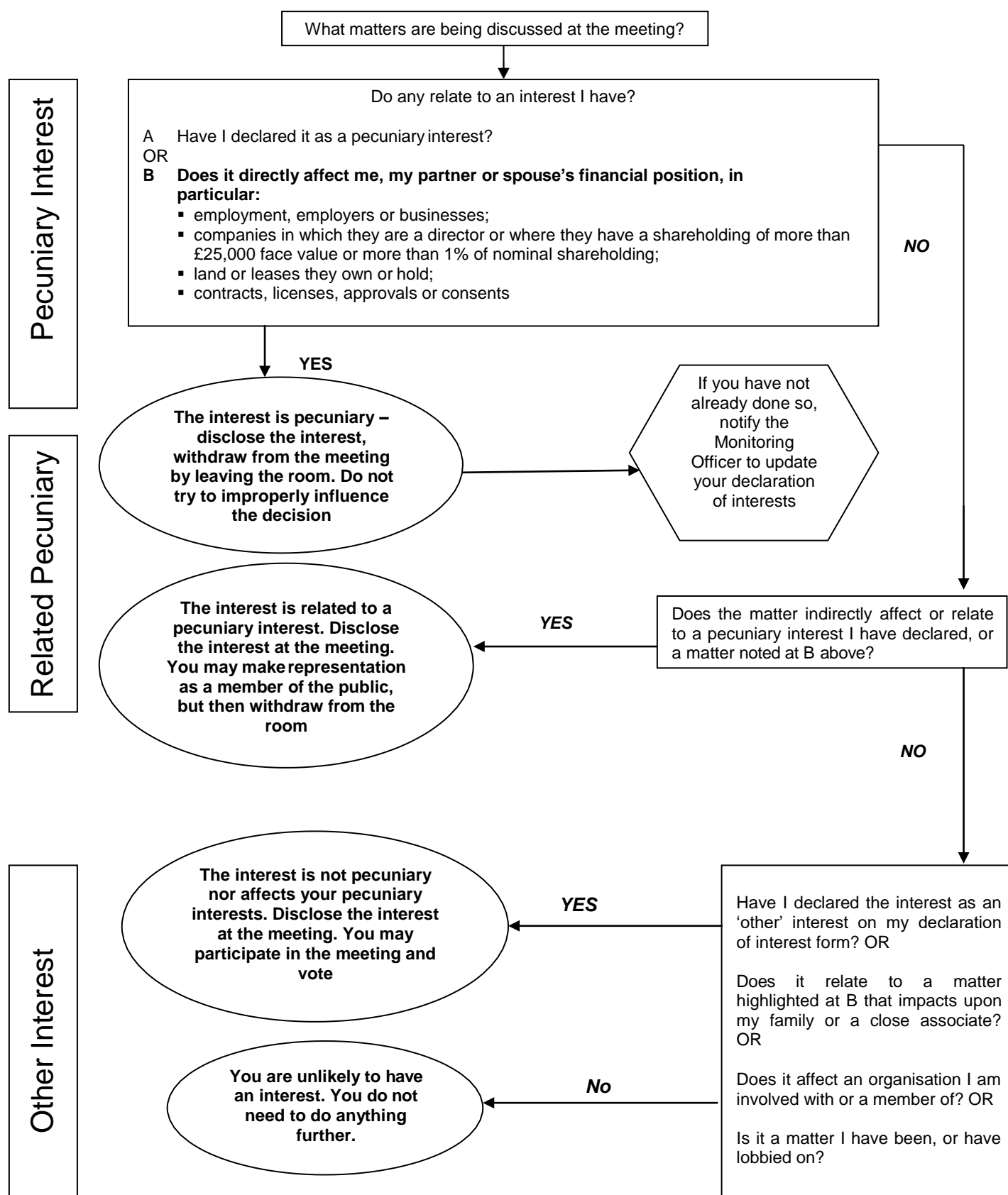
FOR GUIDANCE REFER TO THE FLOWCHART OVERLEAF

PLEASE REFER ANY QUERIES TO THE MONITORING OFFICER IN THE FIRST INSTANCE

DEVELOPMENT COMMITTEE MEMBERS SHOULD ALSO REFER TO THE PLANNING PROTOCOL

Declarations of Interest at Meetings

DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF



Report Title	Two Licensing Committees and procedure guidance notes
Which Committees is this report intended for? (Please state dates)	Licensing Committees 17 May 2022
Is the report Exempt?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Why is it exempt?	
Does the report concern a Key Decision?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If a Key Decision is it on the Cabinet Work Programme?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Ward(s) affected	All
Responsible Cabinet Member name	Cllr Seward
Contact Officer	Cara Jordan
Email address	Cara.jordan@north-norfolk.gov.uk
Telephone number	01263 516373
Are there Non-electronic appendices?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
List of Background Papers used in drafting this report which are not published elsewhere (this is now required by law and will need to be included at the start of the report)	Full Council Agenda of 9 February 2022
File Location	

Implications/Risks

Have you identified and explained within the report the implications of the options available to Members? (Implications should include financial, legal and links to the Council's existing policies and strategies)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> None
Have you highlighted the risks to the Council? Financial Implications and Risks to the Council should have their own separate headings. It is not acceptable to simply state that financial implications or risks have been alluded to in the main body of the report.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> None
Have you considered Sustainability issues in relation to this report? Sustainability should have its own separate heading. It is not acceptable to simply state that	<input type="checkbox"/> Yes

Sustainability has been alluded to in the main body of the report	<input checked="" type="checkbox"/> None
Have you considered Equality and Diversity issues in relation to this report? Equality and Diversity should have its own separate heading. It is not acceptable to simply state that Equality and Diversity has been alluded to in the main body of the report	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> None
Have you considered S17 Crime and Disorder issues in relation to this report? Crime and Disorder should have its own separate heading. It is not acceptable to simply state that Crime and Disorder has been alluded to in the main body of the report	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> None – Full Council has already made the recommendation for 2 licensing Committees. This report is to remind Members of the new position and includes proposed procedure notes

This report has been subject to the following processes:

Consultations with:		
Cabinet Member	<input type="checkbox"/> Yes	If not please state reason below
Local Member	<input type="checkbox"/> Yes	If not please state reason below
S151 Officer	<input type="checkbox"/> Yes	If not please state reason below
Monitoring Officer	<input type="checkbox"/> Yes	If not please state reason below
Democratic Services	<input checked="" type="checkbox"/> Yes	If not please state reason below
Communications Manager	<input type="checkbox"/> Yes	If not please state reason below
Other Head(s) of Service:		
Others:	The Chairman and Vice Chairman of the Licensing Committee	
Please confirm this report has been signed off by:		
Strategic Leadership Team	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not apt
The Chief Executive	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not apt

Licensing Committees from May 2022

Summary:	This report reminds Members that from May 2022 there will be two separate Licensing Committees and provides a suggested guidance note for each of these Committees.
Options considered:	To note this report and consider whether to adopt or amend the procedure guidance notes
Conclusions:	To note this report and the procedure guides
Recommendations:	To note the report and adopt the new procedure guides for the two separate licensing committees
Reasons for Recommendations:	To remind Members that there is to be two separate licensing Committees from May 2022 and to provide clarity of procedure to Members and parties involved in future hearings by way of a procedure guide for each Committee

LIST OF BACKGROUND PAPERS AS REQUIRED BY LAW

(Papers relied on to write the report, which do not contain exempt information and which are not published elsewhere)

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Cabinet Member(s)	Ward(s) affected All
Contact Officer, telephone number and email: Cara Jordan Cara.jordan@north-norfolk.gov.uk	

1. Introduction

1.1 The Licensing Committees at North Norfolk District Council

- 1.2 Previously the North Norfolk District Council has had just one Licensing Committee which has dealt with all licensing related matters. On 9 February 2022, Full Council adopted the recommendations of a report that there be two distinct committees to deal with the different licensing obligations. One of the committees will be a statutory Licensing Committee under the Licensing Act 2003, to be known as:

‘The Licensing Committee (Premises and Gambling)’

And the other is to deal with all other licensing matters and will be known as:

‘The Licensing Regulatory Committee’

The creation of two distinct committees reflects the requirements of the legislation, ensuring that our customers are dealt with fairly and transparently. Further, it may protect the Council from risk of challenge that it has acted *ultra vires*. The recommendations adopted by Full Council on 9 February 2022 were as follows:

- (i) *That the current single licensing committee ceases and that two licensing committees be formed for the next Annual Meeting of Council*
- (ii) *The first of these committees will deal with Licensing Act 2003 and Gambling Act 2005 matters and will be known as the Licensing Committee (Premises and Gambling).*
- (iii) *The second committee will deal with all the other licensing matters not detailed in (ii) above and will be known as the Licensing Regulatory Committee*
- (iv) *Both committees will contain the same members but will be distinct committees and may set up their own sub-committees*
- (v) *That the Monitoring Officer be authorised to update the Constitution to reflect this change.*

- 1.3 The Licensing Committee (Premises and Gambling) will deal with matters such as consideration of applications from premises licences including consideration of whether to permit various forms of licensable activities, reviews of premises licences, and matters relating to the Gambling Act 2005. The Licensing Regulatory Committee is subject to different legislation and will consider a wide range of regulatory licensing matters connected to public protection, such as considering applications by persons wishing to drive taxis; those involved in horse riding establishments; zoos; sex establishments and tattoo parlours etc. Both Committees are to be politically balanced. They may have the same Members but will be separately constituted and this will need to be made clear at those meetings.

2. The procedure to be followed by the Committees

- 2.1 Because the two committees will deal with different areas of licensing, there is a need to have separate procedure notes so that all those attending are aware of the process. Appended to this report are the draft process notes for consideration. **Appendix A** is the proposed procedure note for the Licensing Committee (Premises and Gambling) and **Appendix B** is the procedure note for the Licensing Regulatory Committee. As this latter committee will deal with such a wide variety of matters, there may be occasions where the set procedure is varied slightly to accommodate the particular matter. If approved, these procedure notes can be added to the agenda of the relevant committee, providing clarity to all those involved in the process.

3. Corporate Plan Objectives

3.1 Customer Focus & Financial Sustainability

Ensuring that the Council's democratic process runs as transparently and as effectively as possible, building on the corporate plan objective of focussing on the customer and putting them at the heart of what we do. The setting up of two committees protects the Council from the risk of unnecessary spending from procedural challenge and procedure notes assist all parties in understanding the process to be followed.

4. Financial and Resource Implications

Full Council has adopted the recommendations to establish two separate committees which protect against risk of procedural challenge.

5. Legal Implications

The statutory Licensing Committee (Premises and Gambling) is established pursuant to section 7 Licensing Act 2003 and the Licensing Regulatory Committee under sections 101 & 102 Local Government Act 1972. Full Council have adopted the recommendations that these two committees be established. A procedure note assists with ensuring that persons who come before a licensing committee have a fair hearing.

6. Equality and Diversity

The considerations and recommendations have a remote or low relevance to the substance of the Equality Act. The agenda to committee meetings advises that if you have any special requirements to attend the meeting to let the Council know in advance, including if there is a need for the agenda in a different format or language.

7. Section 17 Crime and Disorder considerations

Both the Licensing Act 2003 functions and other non-Licensing Act functions are relevant to public protection and consideration of the prevention of crime and disorder in the District. Having two committees and a standard procedure note will address the risk of challenge against the committee/s decisions. Establishing two committees was agreed by Full Council.

8. Conclusion and Recommendations

That this report is noted and that the guidance notes, created for each committee, be sent with future agendas.

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North Norfolk District Council

The Licensing Committee (Premises and Gambling) - Procedure to be followed at the Hearing

This Procedure and protocol is governed by; the following legislation:

- The Licensing Act 2003 (Hearings) Regulations 2005 and the Licensing Act 2003 (Hearings) (Amendment) Regulations 2005.
- The Gambling Act (Proceedings of Licensing Committees and Sub Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007.

Introductions

1. The **Chair** of the Sub-Committee should read out a statement declaring under which capacity the Committee is sitting.

The **Chair** must outline that this Sub-Committee is sitting to consider matters under the Licensing Act 2003 and/or Gambling Act 2005.

2. The **Chair** will introduce themselves and the Members of the Committee.
3. The **Chair** will then introduce and explain the respective roles of;
 - (i) the Democratic Services Officer;
 - (ii) the Licensing Officer;
 - (iii) the Legal Advisor to the Committee
4. **The Chair** should invite all those present to introduce themselves and ask them to indicate if they wish to speak during the hearing. (Only those persons who have made representations may address the Sub-Committee)
5. Each party will be asked by the **Chair** whether 15 minutes is sufficient for the presentation of his/her/body's case. (Agreement on the length of time given for each speaker is at the discretion of the Chair).
6. The **Legal Advisor** explains the procedure that will be followed at the meeting. All parties to note that any requests or issues should be directed through the Chair.

The Application

7. The **Licensing Officer** outlines the application to the Committee by presenting their report making proper reference to any relevant Licensing Policy and Statutory Guidance.
8. The Committee may ask questions of the Licensing Officer with regards to their report.

9. The **Licensing Officer** will invite questions from all parties to clarify the content of their report.

Presentation of Case / Submissions from Parties

10. In the order of firstly **Applicant**, secondly **Responsible Authority** and thirdly **Other Persons** (or in the case of a review the relevant person), each party shall be invited to undertake the following:
- (i) Set out their case;
 - (ii) Call Witnesses in support of their case (provided notification of the witnesses has previously been given to the Council);
 - (iii) Introduce documentary evidence in support of their case (provided notification of the documentary evidence has previously been given to the Council); and
 - (iv) Respond to any questions asked of them by Members of the Licensing Sub-Committee.
11. At the Sub-Committee and Chair's discretion each party may ask questions of other parties by directing them through the Chair. (please note witnesses may not put questions to other parties)
12. The Sub-Committee shall have the absolute discretion to restrict the number of witnesses and documents that any party can introduce, or the time spent on submissions or oral evidence, to ensure the proper running of the hearing. Where there are a number of persons with similar representations, a spokesperson may be chosen to speak.
13. Any witnesses that any party is seeking to call that have not previously been notified to the Council, in advance of the hearing, shall only be allowed with the consent of all other parties at the hearing. The Sub-Committee shall have the sole discretion to refuse to allow any witnesses to be heard, even where the consent of all parties has been given. In reaching the decision the Sub-Committee may consider any circumstances they believe to be relevant, and will have regard to the relevance of the evidence to the matters before the Committee.
14. Any documents that any party is seeking to adduce that have not previously been notified to the Council, in advance of the hearing, shall only be allowed with the consent of all other parties at the hearing. The Sub-Committee shall have the sole discretion to refuse to allow any documents to be adduced, even where the consent of all parties has been given. In reaching the decision the Sub-Committee may consider any circumstances they believe to be relevant, and will have regard to the relevance of the evidence to the matters before the Committee.

Closing Submissions

15. The **Chair** shall invite each of the parties to present a closing submission, of no more than 5 minutes, to the Sub-Committee, in the order of
- firstly **the Responsible Authority/ or Responsible Authorities;**
 - secondly **Other Persons;**
 - thirdly, the **Licensing Officer**
 - lastly the **Applicant (or their representative)**

Each party may comment upon what has been said but no new evidence should be introduced.

16. At the end of the Closing Submissions the **Chair** may ask the **Legal Advisor** if there is any clarification or points they wish to make or advise the Committee of.

Reaching and Making a Decision

17. The **Chair** will ask the Council's Legal Advisor to address the Committee on any outstanding matters.
18. The **Chair** will then thank all those who have spoken and invite the Committee to retire to consider the application, accompanied by the Legal Advisor and Democratic Services Officer (who will take no part in the decision).
19. The Committee will then consider the case and evidence before them at the hearing and will seek to reach a decision with reasons for the decision.
20. Once a decision has been made, the **Chair** will invite the **Legal Advisor** to announce in public any legal advice they have given in private.
21. The **Chair** will read out the decision and the reasons for the decision, or in some cases, advise that the decision will be notified to parties at a later date. Where appropriate, the **Chair** will ask the Licensing Officer for any comments on their decision prior to any final determination.
22. The **Chair** will explain that all parties will be notified of the outcome of the decision and reasons for the decision in writing.
23. If the Committee is unable to reach a decision on the day, the **Chair** will explain that all parties will be notified as soon as possible (but within 5 working days or other time period as set out in the Licensing Act 2003 or related regulations) of the decision and the reasons for such.

NOTE

A decision may be deferred to:-

1. Receive further documentation referred to in the meeting
 2. Enable a site visit to take place
 3. Invite the Applicant or his representative to appear if they had not done so at the meeting (only once)
- No further debate may be heard on further documentation or at a site visit
 - Adjournments should generally be granted if to refuse would deny applicant a fair hearing.

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North Norfolk District Council

The Licensing Regulatory Committee - Procedure to be followed at the Hearing

The purpose of the Licensing Regulatory Committee is to discharge the Council's functions in relation to a wide variety of regulatory licensing matters connected to public protection, such as considering applications by persons wishing to drive taxis (which, where personal information is involved, may be heard in a private session); those involved in horse riding establishments; zoos; sex establishments and tattoo parlours etc. The Licensing Regulatory Committee **does not** hear matters relating to the licensing of premises and gambling establishments.

Consequences if the Party does not attend Hearing:

- 1) If a party has informed the Authority that he does not intend to attend or be represented at a Hearing, the Hearing may proceed in his absence.
- 2) If a party who has not so indicated fails to attend or be represented at a Hearing the Authority may –
 - a) Where it considers it to be necessary in the public interest, adjourn the Hearing to a specified date, or
 - b) Hold the Hearing in the party's absence.
- 3) Where the Authority holds the Hearing in the absence of a party, the Authority shall consider at the Hearing the application, representations or notice made by that party
- 4) Where the Authority adjourns the Hearing to a specified date it must forthwith notify the parties of the date, time and place to which the Hearing has been adjourned.

The procedure is outlined as follows:

Introduction

1. The Chair of the Sub-Committee should introduce and explain the role of;
 - (i) The Committee
 - (ii) The Legal Advisor
 - (iii) The Licensing Officer
 - (iv) Democratic Services Officer
2. The Chair should invite the applicant or the person subject to consideration to introduce themselves and any representative they may have.
3. Those present to be made aware that all questions and comments should be directed through the Chair.
4. The Chair should invite the Legal Advisor to outline the procedure and address any preliminary matters or requests.

5. (Where the hearing is being heard in a private session) The Chair will make a statement excluding the press and public from the meeting pursuant to Schedule 12A of the Local Government Act 1972

The Application/Subject of Consideration

6. The Chair will invite the Licensing Officer to present their report, outlining the case, the background, and provide any new information, having regard to existing policy and conditions.
7. The Licensing Officer may call witnesses to support the Council's case.
8. The Licensing Officer invites questions on the report from all parties.
(The Applicant, the Objectors, the Board Members and the Legal Advisor)
9. Questions must be relevant to the matter in hand.

The Applicant's Case/Person Subject of Consideration

10. The Chair then invites the Applicant/person under consideration or their representative to present their case. They can make statements and can call witnesses (the applicant/person subject of consideration may be 'a witness' if represented).
11. Any witness called must be open to questioning, firstly by the Licensing Representative and then the Sub-Committee.
12. Questions must be relevant to the matter in hand.

Objectors

13. The Chair invites the Objectors to put forward their case.
14. The Chair invites questions to the Objectors from the Applicant, the Sub-Committee and the Legal Advisor. Any party may call witnesses or ask questions of the witnesses.

Closing Statements

15. The Chair then invites any objectors to make a closing statement. They may comment on what has been said but no new evidence should be introduced.
16. The Chair then invites the Council's Licensing Representative to sum up their case. They may comment on what has been said but no new evidence should be introduced.
17. The Chair then invites the Applicant/person under consideration or their representative to sum up their case and make a closing statement. They may comment on what has been said but no new evidence should be introduced.
18. The Chair will ask the Legal Advisor if there is any advice before the Sub-Committee retires.

Reaching a Decision

19. The Chair will then thank all those who have spoken and invite the Sub-Committee to retire to consider the case in private, accompanied by the Legal Advisor. The Chair will explain that the Legal Advisor will take no part in the decision making.

20. The Sub-Committee will then consider the case presented to them at the hearing and will seek to reach a decision and reasons for their decision.
21. Once a decision has been made, the Sub-Committee and Legal Advisor will return back in to the room and the Legal Advisor will announce in public any legal advice they have given in private.
22. The Chair will read out the decision and the reasons for the decision (save where paragraph 23, below applies).
23. The Chair will explain that notification of the outcome of the decision and reasons for the decision will be made in writing.
24. If the Sub-Committee are unable to reach a determination at that time, the Chair will explain that all parties will be notified as soon as possible (but within 5 working days, or such other period as permitted under legislation) of the decision and the reasons for such.

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