

Minutes of a meeting held in the Conference Room, Riverside, Lowestoft
on **Friday, 5 August 2016** at **10.00am**

Members present:

Councillors P Ashdown, A Green and K Springall
Councillor N Brooks (Substitute and as an observer)

Officers present:

C Evans (Licensing Services Manager), P Holland (Licensing Officer), I dePrez (Senior Solicitor)
and S Carter (Democratic Services Officer)

1 APPOINTMENT OF CHAIRMAN

Consideration was given to the appointment of Chairman for the Sub-Committee Hearing, and it was

RESOLVED

That Councillor Ashdown be appointed as Chairman for this Sub-Committee Hearing.

2 APOLOGIES / SUBSTITUTES

No apology for absence was received.

3 DECLARATIONS OF INTEREST

No declarations of interest were made.

4 DECLARATIONS OF LOBBYING

No declarations of lobbying were made.

5 PREMISES LICENCE APPLICATION – PAPPA'S PIZZA / THE SHIP, 10 BRIDGE STREET, HALESWORTH

Purpose of the Hearing

The Sub-Committee considered a report, the purpose of which was to consider an application for a premises licence for Pappa's Pizza / The Ship in Halesworth.

The Licensing Services Manager explained that the application had been made for the sale by retail of alcohol, both on and off the premises, details of which were set out in Appendix A to the report. The application sought to allow the sale of alcohol between 12:00 to 22:00 hours Wednesday to Saturday and on Sunday 12:00 to 22:00 hours four times a year for street markets and the carnival.

During the consultation period, two letters of objection had been received from residents who had grave concerns that their quality of life and their locality would be adversely affected by the grant of the licence, full details of which were contained in Appendix B.

In exercising its licensing functions as set out in the report, the Sub-Committee needed to consider any direct impact of the licensable activities on members of the public living, working or engaged in normal activity in the vicinity of the premises. In assessing the impact of human rights, the Sub-Committee had to strike a balance between the right of the proprietors to conduct the business and the right of the local residents who might find the activities intrusive.

The Sub-Committee had the option to:

1. Grant the application subject to such conditions as were consistent with the operating schedule accompanying the application and any condition which must be included in the licence in accordance with the Licensing Act 2003.
2. Grant the application subject to such conditions as were consistent with the operating schedule accompanying the application, modified to such extent as the Sub-Committee considered necessary for the promotion of the licensing objectives, and any condition which must be included in the licence in accordance with the Licensing Act 2003.
3. Refuse the application.

Depending on the decision of the Sub-Committee, the Applicant and the objectors had rights of appeal to the Magistrates' Court.

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

Note: The meeting was adjourned from 10.07am to 10.08am to allow for late arrivals.

The Licensing Service Manager reported that the Applicant had confirmed he would not be present at the hearing and he was not intending to send a representative.

As an objector, Mr Corbett confirmed he could only support what he had already said.

Ward Councillor T Goldson advised he was present to speak for Mr Palmer, an objector, and local residents.

The Senior Solicitor explained the different legislation that applied to planning and licensing matters, in that the Planning Committee considered the amenity of the area and the Licensing Committee had to consider an application with regard to licensing objectives. Each Committee would make individual decisions which could, in fact, be different decisions.

Representations by Objector - Mr T Corbett

Mr Corbett reiterated the content of his written objection and further mentioned the additional issues that would arise from Sunday opening and the impact of nuisance on families and residents. It also appeared the takeaway would be turned into a restaurant.

Representations by Objector - Ward Councillor T Goldson

The Licensing Services Manager clarified the regulations in that Councillor Goldson was only entitled to speak on behalf of the objector Mr Palmer who had given his consent. Unless residents had objected and confirmed they wished him to represent them, he had no right to express views on their behalf.

Councillor Goldson thanked Members for giving him the opportunity to speak. As a Councillor for the area, he was keen to promote local businesses. However, the map in the proposal was not drawn to scale and no more than six people and two chairs would fit in the room proposed for the micro pub. The rear courtyard was a shared space with residents in the flats and, for the children who lived there, it was their only outside play area. Outside the front door of the premises, the buildings on the opposite side of the street were only 30 foot distant, with benches between the two. The overspill from the pub would cause inconvenience and disturbance; further problems would arise as a result of lack of parking. Consideration should be given to noise, language and anti-social behaviour and the room to be used for the micro pub had no facility for a bar and could only be accessed from the street. One further concern was that the toilets adjacent to the kitchen would have to be shared with customers and that was unacceptable under hygiene standards. Everything indicated that the building and its location were totally inappropriate for a micro pub. The licence should be refused.

Questions from the Sub-Committee

The Chairman asked if local Councillors had received complaints from the police about the area and if the police had responded to the consultation.

Councillor Goldson explained that the Thoroughfare was a concern; it was a shared space scheme not a through road and there were no police to police it.

The Licensing Services Manager reported that no comments had been received from the Police as Responsible Authority, nor indeed had Trading Standards or Environmental Health raised any objection. It was confirmed that Environmental Health would comment on both noise and public health matters; they had raised no issues. The licence application did include the courtyard and it would likely be used for people to sit in.

The Senior Solicitor clarified the fact that the current use was a takeaway, with a few tables for people to sit and wait; the proposed space for the micro pub was an empty room. It was understood that the courtyard was owned by Pappa's Pizza but the flat occupiers had access.

Closing Submissions

Councillor Goldson raised further issues relating to the Applicant locking doors to stop public access into the kitchen, overspill into the street, the lack of internal access from the serving counter into the micro pub, the need for a licence to put tables onto the street and the fact that the owner of the building was different to the licence applicant.

Mr Corbett thanked his Ward Councillor for presenting the objectors' case. Bridge Street was like a funnel and the traffic problems that existed now would only increase. If real ale was served, then there would likely be an influx of people. His bedroom window was only feet away from the doorway. Children leaving school and families using the café would be affected. The intrusion into the street would disturb everyone and likely result in adverse effects on businesses. The Police did not have the manpower to deal with parking issues and he already experienced his driveway being blocked by cars visiting the premises. The footfall would increase and his wife, Mrs Corbett, stated that people would be tempted to buy alcohol and sit outside, all of which would result in young people on the street being livelier and noisier. They could not support the licence.

The Sub-Committee stated it was mindful that the whole purpose of a micro pub was to cater for, say, six people. The Licensing Officer explained that the Applicant was well aware of the limits of a micro pub; the proposal was modelled on successful pubs like this which were in place throughout the country.

The Licensing Officer confirmed that the Applicant had positively stated he would not be attending the hearing and he was confident that Members would make the right decision.

Legal Advice

The Senior Solicitor explained that the Applicant needed both planning and licensing permissions to set up his micro pub and sometimes decisions differed. The licence could be granted but the Applicant would not be able to run the pub as he did not have planning permission. If he started the pub without planning permission, then it would be subject to enforcement action.

The Senior Solicitor confirmed that the Sub-Committee were entitled to make a decision in the absence of the Applicant.

THE MEETING WAS ADJOURNED AT 10.40AM AND RECONVENED AT 11.49AM.

The Chairman explained that the Sub-Committee had considered the application for a new premises licence for Pappa's Pizza / The Ship at 10 Bridge Street, Halesworth. The application sought to authorise the sale and supply of alcohol on and off the premises.

Having heard from the Licensing Officers and considered the representations from the objectors, it was concluded by the Sub-Committee that the licence should be approved for the hours requested but subject to a requiring that if alcohol was sold or supplied it should only be ancillary to the sale of food and should be consumed with food on the premises

Reasons for Decision

The application had been made by Mr Nicholas Carter for a new Premises Licence for Pappa's Pizza/The Ship at 10 Bridge Street, Halesworth. The application sought to authorise the sale and supply of alcohol on and off the premises between 12.00 and 22.00hrs from Wednesdays to Saturdays and during the same hours on Sundays, four times a year during Street Markets and the Carnival

The hearing had taken place because the Council received representations during the consultation period from two local residents expressing concern that the granting of the licence would adversely affect their quality of life and that of the locality.

At the hearing, the Applicant was not present, and Members were told by the Licensing Officer that he had no intention of being present. The Sub-Committee heard from Mr Corbett who had made one of the representations, and his wife Mrs Corbett, and Councillor T Goldson the Ward Councillor who spoke on behalf of the other person making a representation, Mr Palmer.

The Sub-Committee understood that the premises currently operated as a takeaway with some tables for customers to be seated, with no alcohol licence. The plan attached to the licence application appeared to include all of the public parts of the building and would thus enable alcohol to be sold to customers eating food on the premises and taking away.

The Sub-Committee was advised that the Council's Planning Committee recently refused a planning application for a change of use to enable the creation of a micro pub in part of the building. As was made clear during the hearing, planning and licensing were separate areas of law. Although they both happened to be administered by this Council, the Licensing Sub-Committee was in no way bound to follow the planning decision. The factors taken into account respectively by Planning and Licensing Committees overlapped but did not exactly coincide. In any event, as was pointed out during the hearing, the granting of a licence for alcohol would not be inconsistent with the Planning Committee's decision because takeaways/restaurants quite commonly sold alcohol without requiring a change of their planning status. It was understood that the premises had a use class A5 (takeaway) which meant that it could also lawfully operate as a restaurant (A3) without express planning permission.

With those principles in mind, the objectors were asked why they objected to the sale of alcohol from the premises. The response was that the sale of alcohol would act as a magnet increasing the footfall in a sensitive area. Reference was made to a number of school children passing by. There were fears that people would be tempted to simply buy alcohol and that would risk anti-social behaviour locally and a reduction in the quality of life of residents.

As Licensing Authority, in accordance with section 18 of the Licensing Act 2003, it was the Sub-Committee's duty to decide whether to grant the licence and if so with what conditions, with regard to what was appropriate for the promotion of the four licensing objectives. The licensing objectives relevant to the application were the prevention of crime and disorder and the prevention of public nuisance. Although some reference had been made to the prevention of harm to children, which was also a licensing objective, Members were not satisfied that the risk of that been demonstrated.

In making a decision about public nuisance, regard needed to be given to the character of the area. Bridge Street was a thoroughfare through Halesworth in which a majority of

businesses were located as well as some residential properties. The Sub-Committee thought that the concerns that had been expressed were understandable, but Members were of the opinion that it would be unfair in the light of everything heard at the hearing to completely refuse the application. The Sub-Committee was disappointed by the absence of the Applicant. The Sub-Committee had been advised that that was not a reason in itself to refuse the application. Members had to make the best decision they could on the information they had. The Sub-Committee thought it reasonable to take a cautious approach because it had not had the opportunity to ask the Applicant questions about how he would respond to concerns.

The overall conclusion of the Sub-Committee was that the licence should be granted for the hours requested but subject to a condition requiring that if alcohol was sold or supplied it should only be ancillary to the sale of food and to be consumed with food on the premises. The Sub-Committee believed that it was appropriate to impose this restriction on the licensable activity in order to prevent public nuisance and crime and disorder. The Sub-Committee noted and gave due weight to the fact that the Police, as Responsible Authority, had not made a representation, but Members believed that the restriction was appropriate in the light of what they heard at the hearing from the residents and Councillor Goldson. The licence would also be subject to all other conditions consistent with the operating schedule and with the restriction as set out.

RESOLVED

That, having taken account of all the information and evidence presented, the application for the sale of alcohol between 12.00 and 22.00hrs from Wednesdays to Saturdays and during the same hours on Sundays, four times a year during Street Markets and the Carnival be approved, subject to a condition requiring the sale of alcohol being ancillary to the sale of food and consumed with food on the premises.

The meeting concluded at 12.00pm.

Chairman