



LICENSING SUB-COMMITTEE

31 October 2016

PREMISES LICENCE REVIEW HEARING

Application Ref

WPREM2322

Applicant's Name

Environmental Protection, Waveney District Council

Premises Address

Flawless, 1 Commercial Road,
Lowestoft, NR32 2TD

Ward

Harbour

SUMMARY OF APPLICATION

- An application for the review of the premises licence for 'Flawless', Commercial Road, Lowestoft, which at the time of the application was held by Miss Kelly Dighton, was received on 06 September 2016.
- Sarah Long (Environmental Protection Officer) made the application on behalf of Environmental Protection; a responsible authority under the Licensing Act 2003.
- The application relates to the licensing objective of 'the prevention of public nuisance'.
- The application was advertised as required by regulation and a copy of the review document was sent to all other Responsible Authorities as required.
- During the consultation period, the Suffolk Constabulary has made a representation

Is the report Open or Exempt?	Open
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Wards Affected:	ALL
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Cabinet Member:	Councillor M Rudd, Cabinet Member for Community Health & Safety
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Supporting Officer:	Caroline Evans, Licensing Services Manager 01394 444678 caroline.evans@eastsoffolk.gov.uk
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1 REASON FOR HEARING

- 1.1 In accordance with the Licensing Act 2003, a Responsible Authority has made an application for a review of the premises licence relating to the licensed premises at 1 Commercial Road, Lowestoft.
- 1.2 The licence holder has been provided with a copy of the application and this is attached as **Appendix A**.
- 1.3 This review has been called on the grounds of the following licensing objectives:
 - The Prevention of Public Nuisance.
- 1.4 Details of the noise nuisance that the venue has caused, the Abatement Notice served and its subsequent breach are all detailed within the review application document.

2 REPRESENTATIONS

- 2.1 During the statutory consultation period a representation was received from the Suffolk Constabulary (attached as **Appendix B**).
- 2.2 The Constabulary expressed concerns that the current licence holder (Ms Dighton) was failing to uphold the licensing objectives; with particular regard to the 'Prevention of Crime and Disorder'.

3. ADDITIONAL CONSIDERATIONS

- 3.1 On 9 September 2016 the Licensing Team received an application to transfer the premises licence to Mr Afrim Alvora, the previous licence holder and leaseholder of the premises, and to vary the licence to name Mr Alvora as the Designated Premises Supervisor. At this time the premises name was also changed and is now known as 'The Crossing'.
- 3.2 Another application was then correctly served on 19 September 2016; this application transferred the premises licence to Mr Scott Wolfe. The Suffolk Constabulary approved this application and reported that Mr Wolfe said he was aiming to turn the premises into a small bar that caters for people who just want to have a quiet drink and as such there will be only background music.

4. CURRENT LICENSABLE ACTIVITIES AND HOURS

- 4.1 The current premises licence is attached at **Appendix C**. The licence authorises both live and recorded music until 01:00 and 02:00 hrs respectively.

5. POINTS FOR CONSIDERATION

- 5.1 In exercising its licensing functions, the Licensing Authority has stated in its licensing policy that it will 'consider the direct impact of the licensable activities on members of the public living, working or engaged in normal activity in the area concerned. The Licensing Authority wishes to safeguard the amenity of residents and other businesses from the potential adverse consequence of the operation of licensed premises whilst recognising the valuable contribution that such premises make to the local economy as well as their social and cultural significance.'
- 5.2 The attention of the Sub-Committee is drawn to the following:
 - a) The Licensing Act 2003 Section 4 requires the Sub-Committee to have regard to:
 - Guidance Issued under Section 182 of the Licensing Act 2003.
 - The Council's Statement of Licensing Policy

If the Sub-Committee has reason to depart from the above it is asked to give full reasons for so doing.

b) Human Rights Act 1998

- The Human Rights Act 1998 came into force on the 2 October 2000. The Sub-Committee is urged to have careful regard of its provisions.
- It is unlawful for a public authority (this expression includes local authorities) to act in a way which is incompatible with a human right.
- As far as the applicant's right to a fair hearing is concerned (Article 6), the applicant has a right to be heard by the Licensing and Health Sub-Committee. If this application is refused or granted subject to modification, the applicant has a right of appeal to the Magistrates' Court.
- In assessing the impact of human rights the Sub-Committee must seek to strike a balance between the right of the proprietors in the business to conduct it as they wish and local residents who may find its activities intrusive. In this context a business is a "possession" and the human right is expressed to be for the "peaceful enjoyment" of it. A rider to this human right empowers the Council to control the enjoyment of that business by its proprietors in the general interest. At the same time, local residents are entitled to the peaceful enjoyment of their homes.

CONCLUSION

The Sub-Committee will be asked to determine this application and has the option to:

a) **Modify the conditions of the licence**

This could include either imposing further conditions on the licence or changing (for example, further restricting) the hours of certain licensable activities, where this is proportionate and relevant to the licensing objectives;

For this purpose, the conditions of the licence are modified if any of them are altered or omitted, or any new condition is added.

b) **Exclude a licensable activity from the scope of the licence**

The Sub-Committee may decide that it is proportionate and relevant to the licensing objectives to remove one or more of the licensable activities;

c) **Remove the Designated Premises Supervisor**

d) **Suspend the licence for a period not exceeding three months**

e) **Revoke the licence**

Depending on the decision of the Sub-Committee, the licence holder and the applicant have rights of appeal to the Magistrates Court.

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

APPENDICES	
Appendix A	Application for Review
Appendix B	Representation form Suffolk Constabulary.

BACKGROUND PAPERS

The Waveney District Council Statement of Licensing Policy, The Licensing Act 2003 (“the Act”) and the Guidance issued under section 182 of the Act.