

Licensing & Regulatory Committee

Agenda

Date

Wednesday 2 May 2018

Time

9:30 am

**The following 3 Members ONLY
are needed to attend**

Mrs S C Gurney - Chairman
Mrs J Copplestone
Mrs B Rix

Place

Council Chamber
Thorpe Lodge
1 Yarmouth Road
Thorpe St Andrew
Norwich

Contact

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**If any member wishes to clarify details relating
to any matter on the agenda they are requested
to contact the relevant Head of Service.**



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**The Chairman will ask if anyone wishes to
film / record this meeting**

A G E N D A

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| 1 | To receive declarations of interest under Procedural Rule no 8 | |
| 2 | Apologies for absence | |
| 3 | Non-exempt Minutes of meetings held on 22 November 2017 and 12 December 2017 | 3 – 20 |
| 4 | Matters arising therefrom (if any) | |
| 5 | Exclusion of the Press and public | |
| | <p>The Chairman will move that the Press and public be excluded from the meeting for the remaining business because otherwise, information which is exempt information by virtue of Paragraphs 1, 3 and 7 of Part I of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, would be disclosed to them.</p> | |
| 6 | (9:30am) Local Government (Miscellaneous Provisions) Act 1976 – Private Hire Driver Licensing | |
| | To consider matters involving a private hire vehicle driver | 25 – 36 |
| | A copy of the procedure to be followed is attached | 21 – 24 |
| 7 | (10:45am) Local Government (Miscellaneous Provisions) Act 1976 – Private Hire Driver Licensing | |
| | To consider an application for a private hire vehicle driver's licence | 39 – 54 |
| | A copy of the procedure to be followed is attached | 37 – 38 |
| 8 | Exempt Minutes of meeting held on 22 November 2017 | 55 – 59 |

P C Kirby
Chief Executive

Minutes of a meeting of the **Licensing & Regulatory Committee** held at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich on **Wednesday 22 November 2017** at **9.30am** when there were present:

Mrs S C Gurney – Chairman (minutes 29 – 35)

Mrs J K Copplestone (minutes 29 – 32) Mr R J Knowles (minutes 29 – 32)
Mr S Dunn (minutes 29 – 35) Mr K G Leggett MBE (minutes 29 – 32)
Mr R F Grady (minutes 29 – 35) Mr V Ray-Mortlock (minutes 29 – 32)
Mrs L H Hempsall (minutes 29 – 32)

Also in attendance were Mr D Lowens and Mrs N Rankin (the Committee's legal advisor and a trainee Solicitor respectively), the Food, Safety and Licensing Team Manager, the Technical Officer – Licensing Enforcement (SH) and the Committee Officer (DM).

29 APOLOGIES FOR ABSENCE

Apologies for absence were received from Mr I N Moncur, Mrs B H Rix and Mr V B Tapp.

30 DECLARATIONS OF INTEREST

Member	Minute No & Heading	Nature of Interest
Mrs Hempsall	32 Local Government (Miscellaneous Provisions) Act 1976 – Equality Act 2010 – Private Hire Licensing	Local choice, non-disclosable, non-pecuniary – occasional travel by taxi with an assistance dog

31 MINUTES

The Minutes of the meeting held on 27 September 2017 were confirmed and signed as a correct record.

32 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 – EQUALITY ACT 2010 – PRIVATE HIRE LICENSING

Members considered the report detailing changes to the requirements placed on licensing authorities and private hire vehicle operators and drivers following the commencement of sections 165 and 167 of the Equality Act 2010. The aim of the changes was to regularise the practices adopted by

private hire companies for carrying wheelchair users and ensure equality for all users. With regard to the position in the region, one local authority had already implemented the changes and all others were currently working towards doing so.

Members noted that, in accordance with the new requirements, and following consultation with Broadland's licensed private hire operators, a designated list of all wheelchair accessible vehicles (WAVs) which were capable of carrying customers in their wheelchairs had been compiled and 13 had been included on the list. A further list of all Broadland Council licensed vehicles capable of carrying a folded wheelchair in their vehicle could also be compiled. Many of the existing vehicles licensed by the Council were capable of carrying a standard folded wheelchair as most had been assessed as part of their licensing application as being capable of carrying customers' luggage.

In response to a number of questions raised by Members in considering the proposals, the Food, Safety and Licensing Team Manager explained that government guidance had been followed regarding the size of a standard wheelchair to be accommodated but it was acknowledged that some chairs used would be bigger than the standard. Any medical assessments needed as part of applications for exemptions would be undertaken by an independent assessor such as Workplace Health and Wellbeing with the costs being met by this Council and recouped from the income received from licence application fees. With regard to refusals at the point of collection to take assisted passengers on medical grounds, it was envisaged that the new proposals would minimise the likelihood of this happening as a list of suitable vehicles would be published to allow the customer to choose an appropriate company to travel with and these vehicles were purpose built to carry passengers in wheelchairs so drivers were unlikely to be allocated to these vehicles if they had a medical exemption. Members felt there could be an increase in the number of medical exemptions being applied for and this needed to be monitored. Any refusal at the point of collection would require the driver to produce their exemption badge and certificate and it was noted that the exemption badge for wheelchair assistance was a different colour to the exemption badge for carrying assistance dogs. The typical reasons for medical exemptions from carrying assistance dogs were very different to the reasons for medical exemptions for carrying wheelchairs and their users and Members were keen to see the two exemptions kept separate. It was noted that most drivers of WAVs would be covered by their public liability insurance but Members raised concerns about the issue of training of drivers to assist wheelchair users in the correct way to ensure the safety of the driver and the passenger. With regard to the 13 WAVs on the designated list, it was noted that these drivers would be trained in carrying passengers in their wheelchairs and they were unlikely to require assistance into/out of chairs. With regard to other vehicles on the proposed list of vehicles capable of carrying folded wheelchairs, the issue of training was a difficult one to resolve. Having regard to these concerns and the implications of establishing a list of vehicles capable of carrying folded wheelchairs, Members were not satisfied that there

was any merit in producing a list of such vehicles. A question was raised as to whether there was an expectation on passengers who required assistance to declare this at the time of booking and it was noted that the changes to the legislation were aimed at ensuring equality for all passengers and avoiding the need for this. Experiences of some assisted passengers had indicated longer waits and increased charges had been applied. A further question was raised about the issue of risk assessments and the need to provide customers with some assurance that the necessary steps had been taken to ensure the safety of assisted passengers. Officers confirmed that drivers of the WAVs would be trained in the use of these purposely built vehicles and that they would be inspected regularly to ensure they were fit for purpose.

The Council's legal representative advised Members, when deliberating the proposed changes, to note that the legislation provided that the Council "may" maintain a list. The issue of training of drivers was a valid one as there was an obligation on drivers to give assistance to users of wheelchairs. He also commented that, if a driver was not satisfied that a wheelchair could be carried safely, he could lawfully refuse to carry the wheelchair.

Having regard to the list of vehicles suitable for carrying folded wheelchairs and concerns about the lack of formal training of drivers of such vehicles, Members were minded to not support to formulation of a list of such drivers. They did however fully support the compiling and publishing of a list of WAVs.

It was therefore

RESOLVED

to:

- (1) collate and publish a designated list of WAVs under section 167 of the Equality Act 2010 and consequently place duties on taxi and private hire vehicle drivers to assist customers wishing to travel in their wheelchair at no additional charge;
- (2) issue medical exemptions to those drivers assessed by Workplace Health and Wellbeing (or any future equivalent) and deemed appropriate to be exempt from the requirements of section 165 of the Act; and
- (3) agree the additional paragraph to the Council's Private Hire and Hackney Carriage Policy and Conditions as detailed at Schedule 1 and attached at Appendix 1 to these Minutes.

35 LICENSING ACT 2003 – PERSONAL LICENCE

The Committee considered matters involving a personal licence holder. After due consideration, as detailed in the exempt appendix to the signed copy of these Minutes, it was

RESOLVED

to revoke the personal licence.

The meeting closed at 1:50 pm

Licensing & Regulatory Committee

Minutes of a meeting of the **Licensing & Regulatory Committee** held at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich on **Tuesday 12 December 2017** at **2.00pm** when there were present:

Mrs S C Gurney – Chairman

Mr R F Grady

Mrs L H Hempsall

In attendance were Mr D Lowens (the Committee's legal advisor), the Food, Safety and Licensing Team Manager, the Technical Officer – Licensing Enforcement (SH) and the Committee Officer (DM).

Also present were:

- (1) Mr M Pearcey – Managing Director of the Oaklands Hotel - for the applicant
- (2) Mrs M Bartram – Licensing Officer Norfolk Constabulary – made representations
- (3) Dr T Foreman – Clerk to Thorpe St Andrew Town Council – objecting
- (4) Mr H Hallett, 3 Barber Place, Norwich NR7 0HG – objecting
- (5) Mr S Burgess, 1 Barber Place, Norwich NR7 0HG – objecting
- (6) Mr and Mrs Allison, 4 South Avenue, Norwich, NR7 0EY – objecting
- (7) Mr I Hawkings, 83 Yarmouth Road, Norwich, NR7 0HF – objecting

There were also 4 members of the public present observing the meeting and an apology was received on behalf of Mrs Hawkings (objecting) who was not able to attend.

36 DECLARATIONS OF INTEREST

Member	Minute No & Heading	Nature of Interest
Mrs Gurney	37 Licensing Act 2003 – Application to Vary a Licence	Local Choice Non Pecuniary Interest, she had worked with one of the objectors a number of years ago

37 LICENSING ACT 2003 – APPLICATION TO VARY A LICENCE

The Chairman welcomed everyone to the meeting and invited all present to introduce themselves. She referred to the procedure to be followed and sought confirmation from all present that they all had copies of the papers for the meeting.

The Food, Safety and Licensing Team Manager stated that the Committee was being asked to consider an application from Distinct Hotels Ltd to vary a Premises Licence in respect of the Oaklands Hotel, Yarmouth Road, Thorpe St Andrew, NR7 0HH. He explained the details of the variation as stated in the report which, in essence, was seeking to change the present licence on the terrace and terrace marquee from the consumption of alcohol only to include the sale of alcohol. He drew attention to the fact that the “red line” drawn on the plan with the application did NOT include the garden area. The Food, Safety and Licensing Team Manager produced copies of plans already circulated with the papers for the meeting. These were reproduced on screen and in paper form with coloured annotations, together with some photographs of the terrace and marquee, to assist the meeting. For the purpose of clarity, Mr Hawkings commented that the premises at 87b on the plan which was the nearest to the Oaklands was not a residential property but was part of the lettings accommodation for the Hotel and perhaps should be coloured blue on the plan as was the hotel.

In response to a question about opening hours for New Year’s Eve, the Food, Safety and Licensing Team Manager commented that the opening hours for New Year’s eve were covered by the existing licence and were in line with many other similar establishments where the legislation allowed for opening from normal closing time through to normal opening time the next morning.

The Food, Safety and Licensing Manager reminded the Committee that, to be relevant, any representations received had to relate to one of the four licensing objectives which were

- The Prevention of Crime and Disorder
- The Protection of Children From Harm
- The Prevention of Public Nuisance
- Public Safety

With regard to the steps the applicant intended to take to promote the licensing objectives, it was noted that this element of the application form had not been completed and it was understood the applicant considered that the conditions currently applying to the existing licence were sufficient in respect of the application to vary.

Correspondence had been received from the Police (Norfolk Constabulary) and Environmental Health. The Police had raised no objection but had requested 2 conditions. Environmental Health had no objections. Objections had been received from the occupants of 5 properties nearby and from the Town Council.

With regard to the relevance of the objections made, the Food, Safety and Licensing Team Manager invited the Committee to carefully consider only those representations which were relevant. The papers for the meeting

included all representations made in full but there was a question as to the relevance of much of this information to the application being considered, for example, information associated with the FOI request and the online customer reviews submitted.

With regard to comments made in the representations about the validity of a variation application made in 2008 and the lack of opportunity to people to comment, the Food, Safety and Licensing Team Manager confirmed the 2008 application had been completed, received and processed properly in accordance with the regulations and the required notices erected on site by the applicants and posted in a local newspaper. The process was the same as that for the current application for which a number of objections had been received.

With regard to the matter of fire safety and permitted numbers, the Food, Safety and Licensing Team Manager confirmed these were issues dealt with by the Fire Service and not by the Licensing Authority.

The Food, Safety and Licensing Team Manager went on to comment on the fact that, whilst a premises may have planning permission for a particular activity, it might not have a license, and it may have a license and not have planning permission; the two regulatory mechanisms were entirely separate and there was no provision to have regard to one mechanism when considering the other.

With regard to the noise issues raised, the Food, Safety and Licensing Team Manager drew attention to the fact that there was no objection from Environmental Health which inferred there was no statutory noise nuisance at this time. Investigations into noise complaints had been made and noise monitors used but as yet no noise nuisance had been established. He reminded Members that their determination of the application should be evidence based and appropriate to promote the licensing objectives. Any conditions imposed needed to be proportionate and should avoid seeking to control matters which could more appropriately be dealt with by other regulatory measures such as noise nuisance.

In conclusion, the Food, Safety and Licensing Team Manager commented that the application had clearly raised concerns from neighbours and that there was a process for seeking a review of the licence but, as far as this meeting was concerned, the matter before Members was just the application for a variation and not a review of the current licence. Attention was drawn to an error on page 9 of the report where the Food, Safety and Licensing Team Manager had invited the Committee to take such steps as it considered “necessary” and that this should read “appropriate”.

In answer to questions, the Food, Safety and Licensing Team Manager commented that there was currently a bar in the marquee and the intention of

the application was to regularise the use of the bar and allow the sale of alcohol on the terrace area. He also confirmed that individual residents had not been notified of the application at their home addresses and invited to make comments as this was not a requirement of the licensing regime, unlike the planning process which required neighbour notification. Notices had been placed at the premises and at the roadside entrance as required. The local members and the town council had been notified.

In response to a question about the display of notices in the hotel as required by the existing licence conditions, the applicant confirmed these were displayed at various locations in the premises and in the windows facing onto the terrace area.

Mr Hawkings challenged the advice given about not seeking to control matters which could more appropriately be dealt with by other regulatory measures, such as noise nuisance, as he felt there was no hierarchy as to who should control those measures. The Food, Safety and Licensing Team Manager explained that Environmental Health had powers to abate noise nuisances by serving notices and were well placed to advise on appropriate control mechanisms for noise management as the experts in that field. The Council's legal advisor confirmed that the Guidance contained in Section 182 of the Licensing Act advised that the licensing regime should not duplicate other regulatory controls. Noise nuisance was a relevant consideration in relation to the licensing objectives and he would be advising Members that, if they were minded to apply any conditions, these needed to be relevant to the application.

Mr Hawkings also challenged and sought clarification of the matter of the extended licence hours for New Year's Eve as he considered this matter needed to be subject to consideration by the Committee. The Food, Safety and Licensing Team Manager reiterated the position regarding hours of operation for New Year's Eve but stressed that this was a matter formed part of the existing licence which was not the subject of consideration by the Committee.

Mr Hawkings also asked if due regard had be paid to the public sector equality duty. The Food, Safety and Licensing Team Manager confirmed that, in accordance with the requirements, when dealing with this matter, the licensing authority had paid due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people. The Council's legal advisor confirmed that when deliberating this matter, the Committee would have regard to the requirements.

A further question was raised about the history of noise complaints and if there was a record of these. The Food, Safety and Licensing Team Manager commented that any concerns raised would have been recorded and investigated by Environmental Health. The fact that a noise monitoring device

had been installed confirmed that complaints had been investigated and dealt with at the time. If there had been current concerns about noise issues, Environmental Health would have made representations to that effect. Mr Burgess was concerned that the lack of attendance by Environmental Health might be assumed to indicate there was no noise emanating from the premises which was not the case and he had asked them to attend.

When asked why licensing officers had not taken action to address the fact that alcohol was being sold in the marquee/terrace area at present without the benefit of the appropriate licence, the Food, Safety and Licensing Team Manager commented that officers responded to issues identified on inspection or from complaints received and as soon as this matter had come to light they had dealt with the issue. The submission of a variation application was deemed the most appropriate way forward as there had been no issues raised at that time which caused concerns.

The Committee then heard the case for the applicant. Mr Pearcey stated that he was concerned about the systematic misrepresentations and allegations made against him and the premises. He felt that a small number of people were intent on seeing the hotel close as they did not want to live next door to a business and his staff had been subjected to intimidating behaviour from the neighbours. He had invested heavily in the business and it needed to adapt to meet changing demands. He had effective noise control mechanisms in place and worked with Environmental Health to meet expectations. Out of respect for his neighbours, he had volunteered a number of measures including no DJs or bands in the marquee, the engagement of security staff to patrol the premises mainly in the summer months and at larger functions and the use of appropriate signage. He understood there had been no noise issues in the last 6 weeks which demonstrated his efforts. He made reference to the fact that the noise monitoring device installed at Mr Hawkings' property had not recorded a noise nuisance. He added that correspondence from Mr Hawkings indicated that Mr Hawkings had moved the device closer to the building. He had tried to work with his neighbours but felt it was not always possible, indeed they had, on occasions, refused to meet with him – he believed they did not want to resolve issues – instead they wanted to close his business. They had suggested 21 conditions be attached to his licence to control matters which was not practicable. In view of the distances involved, he refuted the allegations that glasses had been thrown from the terrace into adjoining gardens and that the blood referred to was probably red wine. There was a shared access to the premises and anyone using this could have thrown the glass including patrons from other premises such as the Rushcutters. One of the suggested conditions from the objectors was that they use plastic glasses. With the volume of drinks being served, he was concerned about the impact of this on the environment and felt it would not be welcomed by customers, particularly for weddings. He went on to refute claims that he sought to bus-in people to functions and that, whilst coaches did visit the premises, these were respectable companies including Lees of Durham and transported visitors staying at the Hotel to events like the

Thursford Christmas show. The market for such events was the 75+ age group.

With regard to allegations of crime and disorder and the FOI data obtained from the Police, Mr Pearcey stressed that he had a low tolerance of aggression and disorder at his premises and was not afraid to call the Police if necessary. Many of the calls detailed in the FOI data had been made by his own staff to prevent issues escalating; situations dealt with included a domestic situation, a potential suicide, a missing person, an argument over a best man speech and an allegation of drug use. His staff had been proactive in seeking support in these situations. With over 70,000 customers per year, the incidences of disorder were minimal with one actual arrest.

Mr Pearcey went on to state that he employed over 50 local staff and the premises contributed significantly to the local economy. He wanted to be able to sell alcohol to customers in the marquee and, at present, he had been running tabs for this. He acknowledged that it was his mistake that he was not permitted to sell alcohol in the marquee and wanted to regularise the matter with the variation. If the variation was not approved he would continue to be limited to running "tabs" and customers who wished to purchase drinks would have to return indoors to the bar area to purchase drinks and then return outside which he felt would create more of a disturbance. He invited the Committee to extend him the privilege of approving the variation and trust him to manage his business and to treat with caution the allegations being made against him which were born of a desire to see the premises close. He undertook to increase his efforts to engage with his neighbours but was unsure if they would be willing to do so. He believed they could find a way forward to work together.

The Council's legal advisor invited Mr Pearcey to indicate the impact of his application on the licensing objectives to which he responded that the proposal would not have any impact. He also confirmed that he had no intention of opening all night and morning on New Year's Eve. The Council's legal advisor then asked Mr Pearcey if he was willing to accept the conditions requested by the Police, to which Mr Pearcey responded that he was happy with the conditions and was willing to include them as part of his application. He was aware he could not then appeal against the conditions.

Mr Pearcey then answered questions. He confirmed that security staff were engaged on a case by case basis depending on the event and that they undertook an ambassador role for the business and were trained in CPR. He reiterated the current arrangements for use of the bar in the marquee and why the variation was required. In response to his reference to the noise monitoring equipment being moved, Mr Pearcey commented that Mr Hawkings had stated in his letter of objection that there had been no noise nuisance recorded on the device installed in his home and he had taken a recording on the equipment from outside the Yare suite, where the level was acceptable to him. If the noise monitoring device had picked up an

unacceptable level of noise outside the Yare suite, this could have been used against the Hotel as the noise monitor should have been recording noise levels from his home. The Food, Safety and Licensing Team Manager confirmed that these devices should not be moved and Members sought clarification from Mr Hawkings on this matter. He indicated that he would address this matter when making his representation.

With regard to use of the terrace area, Mr Pearcey confirmed he did not anticipate any increase in usage of the area if the variation was approved but the service to customers would be improved and there would be less disturbance from people entering/exiting the building to buy drinks. The area had a limited capacity (50/60) and there might be the odd occasion when numbers increased over present usage. He confirmed there was no sound attenuation in the marquee but that no music took place in it. If the marquee was removed, there was more potential for noise nuisance. The marquee encouraged people to gather inside rather than out on the terrace and therefore helped to contain the noise of voices. Events in the marquee tended to be low key events such as christenings and anniversaries with the occasional hen party. Music was only played in the main building and only on Fridays and Saturdays and he had recently removed the bass unit to help reduce the impact of noise nuisances.

Mr Hawkings suggested to the applicant that he had not undertaken a risk assessment despite claiming to be concerned about his neighbours.

Mr Pearcey commented that he had had no previous dealings with Mr Hawkings and he had not raised any concerns in the past. He confirmed he had carried out a risk assessment and there were no issues. Mr Hawkings suggested this demonstrated his lack of thought for his neighbours.

Mr Hawkings referred to disturbances suffered by his mother at no 87a, which was situated below the raised terrace area, including glass being thrown which Mr Pearcey had stated was not possible. Mr Pearcey commented that there may have been 2 glasses over many years and added that Mr Hawkings and his mother had eaten free of charge at the hotel. If he was not intending to run throughout the night on New Year's Eve, Mr Hawkings asked why Mr Pearcey was not willing to accept their suggested conditions. Mr Pearcey commented that he wanted to be at liberty to manage his own business. The Chairman and the Council's legal advisor at this point reminded those making representations to focus on the matter of the application before them and to not stray into other matters which were not relevant and that questions should be asked through the Chairman.

Mr Hawkings asked the applicant if he accepted that the serving of drinks on the terrace and closer to the neighbours would create a greater problem of people congregating and therefore increase public nuisance and crime and disorder issues, bearing in mind that senior management would not be able to manage both areas thus resulting in less control. Mr Pearcey stated he believed this was actually the opposite and that customers were more likely to cause disruption if they were refused drinks outside and had to return indoors

to purchase alcohol. People were more likely to self-regulate their drinking if they were purchasing drinks than if they were available on a tab. With or without the variation people would be congregating on the terrace area; the variation would improve the customer experience. Mr Hawkings indicated the issue was not one of concern for the commerce of the hotel or a better experience for customers. He asked if Mr Pearcey agreed that more people buying alcohol on the terrace would result in more people outside. Mr Pearcey responded he did not agree.

The Chairman asked Mr Pearcey to explain why he had not completed the sections in the application form regarding steps he intended to take to promote the four licensing objectives. Mr Pearcey responded that he had not envisaged that the variation would give rise to such strong objections and with hindsight he should have addressed this section. In any event he was more than satisfied that the existing measures in place were sufficient. He gave assurances this would be the case and, in the 25 years his family had been in the business, they had never had any issues with the Police or Environmental Health.

At this point the Committee and all present took a 5 minute comfort break.

On return the Chairman asked if there were any more questions of the applicant. Mr Burgess asked if the annex at no: 87b had planning permission. He was advised that this matter was not relevant. He asked if it had a licence and was advised it did not. Mr Hawkings asked if the conditions requested by the Police regarding the use of security staff could be tightened and the applicant reiterated that he wished to retain the option to use his discretion when deciding which events needed a security presence.

The Committee then heard from Dr Foreman on behalf of Thorpe St Andrew Town Council who clarified that, when referring to transient users of the premises, he was referring to customers moving in and out of the building and not those arriving by coach which they did not have an issue with. They were concerned at the potential for the terrace area to become more of a focal point for gatherings rather than a transient area which could lead to an increase in noise levels from late night discussions on the terrace. The Town Council was generally supportive of the wide variety of activities offered at the premises. Residents had however raised concerns with the Town Council arising from consideration of the recent planning application associated with the premises. The Town Council felt the matters raised with them by residents were matters for the District Council to respond to. Mr Pearcey commented that he had misunderstood Mr Foreman's reference to transient customers. He asked Mr Foreman if he accepted that the facility to buy alcohol would be utilised by the same people who were already using the terrace to consume alcohol so they would be there with or without approval of the variation and Mr Foreman confirmed he accepted this point.

The Committee then heard from the Police representative. Mrs Bartram commented that she had not intended to attend the Committee meeting as her presence could be perceived to indicate the Police had an issue with the application which was not the case. She was attending to help assist matters. The Police had indicated that it had no evidence of any crime and disorder in the area which had been challenged by way of a "Freedom of Information" request. The initial response to this request indicated 10 issues in the previous 12 months but this information was very vague. She had therefore sought clarification on the 10 incidents recorded which gave a clearer understanding and a more balanced view of the issues. Some of the incidents related to calls to the Police from staff and some from other public authorities. Some related to activities in the Lodge which were not linked to the application.

At this point the Committee adjourned to allow an objector to move his car.

Mrs Bartram continued that the Police had good relations with the applicants; and she had visited the premises and spoken with management. She had been surprised at the response to the application. She had viewed the layout of the premises and said it would have been difficult to throw a glass from the terrace into the garden next door. She commented that the variation would allow for the purchase of alcohol on the terrace which was already being used for the consumption of alcohol by patrons. The applicant employed reliable security staff already which was not an existing condition. The Police did not feel there was any need to regulate when security staff should be used but, when on duty, the security staff should patrol the terrace area because of the concerns raised. The Police had requested two conditions be attached to the application but had no other issues.

In response to questions, Mrs Bartram confirmed that the Police were satisfied with the application with the addition of the 2 conditions. She also responded that the hotel was a busy premises and other similar premises would encounter incidents. The issues at the hotel had not been of a nature that the Police felt they had to address them. When asked by Mr Hawkings about the relevance of the two conditions to the prevention of crime and disorder objective, the Police responded that the condition relating to security staff related to the crime and disorder licensing objective and that the Police had sought to assist with the issue of potential noise nuisance by requesting the use of notices.

The Committee then heard from the objectors as follows:

Mr Allison commented that he had always copied the owners into any correspondence and things always got round to being done. Noise was the main issue, in particular the bass. He had been assured that noise monitors were in place and there would be no bands in the marquee. Noise was more of an issue in summer when music could be heard from indoors. He had raised complaints about rubbish and this had been dealt with. He had lived at

his property since 1994 and purchased additional land next to the Oaklands in 2009. He stated he did not “have a go” at the owners and had always tried to speak to them regarding issues. It was not always possible to get hold of Mr Pearcey and he had on one occasion been told to just bear with them as they were in a busy period which he felt was unacceptable.

Mr Burgess stated he lived 20ft away from the main function room on the eastern side and had done so for 24 years. Over the past four years the premises had become a party venue not a hotel and there had been noise, shouting and antisocial behaviour. There had been no problem when Mr Pearcey’s father had run the premises. He was unable to use his second bedroom which was outside the Yare Suite entrance and activity went on until 1am. He felt the applicant was being disingenuous to accuse others of throwing glasses. He did not want to see the business closed and had held a number of meetings with management to discuss noise but nothing had been done. His daughter had completed her work experience at the premises so he had good relations with them but his biggest issue was the noise. He was concerned about the claim that the variation would help avoid doors being opened excessively as the doors should already be closed as part of the existing conditions but they were left open. People also tended to congregate around door areas when waiting/fighting for taxis. He felt these issues could be addressed by having security staff at all events – it should not be up to management to decide which events. Problems often arose when there were no members of staff around. He welcomed the Police conditions but felt they needed tightening. He also felt that, as discussed with the applicant, sound proof fencing could be installed. He also suggested the Committee needed to be mindful of the fact that this application and the recent planning application had both been made retrospectively and the applicant needed to show respect and care for its neighbours who had the right to live peacefully. At the moment they were not able to enjoy their properties because of poor management and lack of control. The Committee could impose those controls and ensure the management had a duty of care.

Mr Hawkings echoed these comments. He had lived in the vicinity on and off since 1980. He was also representing his mother and they were both affected by the bass sound. He had complained in 2013, 2016 and 2017 directly to Mr Pearcey whom he had no personal grudge against – he just wanted to live peacefully and not suffer late night bass. With regard to the public sector equality duty, Mr Hawkings stated his mother had a protected characteristic, and he outlined her medical condition. Her property was situated below the level of the terrace area less than 10m away and she had been forced to move into a different bedroom. There was now more noise and less control which was corroborated by reports on the website from customers occupying the annex at 87b complaining about noise. With regard to the crime and disorder objective, a further report on the website from a guest in the annex referred to the intimidating walk from the hotel to the annex in the dark which was unnerving for lone females.

Mr Hawkings was reminded that much of this evidence was not relevant to the variation application.

Mr Hawkings went on to refer to objects thrown into his mother's garden and shouting/intimidating behaviour towards her. She had also witnessed people climbing on her fence and straying into her garden. She had witnessed escalating arguments and she was not in a position to keep contacting the hotel about these issues. He felt there was a need for a condition to control noise and antisocial behavior.

With regard to the issue of the noise monitoring equipment, Mr Hawkings explained that he had attempted to measure the noise emanating from the Yare suite on an occasion when noise levels were low in an attempt to demonstrate the levels which were acceptable. This was not an attempt to pervert the evidence as had been suggested. Noise apps were available on smart phones and he just wanted to try and identify what was an acceptable level.

Mr Hawkings went on to state that common sense would suggest that if the sale of drinks were to be allowed this would result in more people and more noise; the function area would be nearer to the boundary and noise would get worse. He had contacted the owners with complaints on many occasions and the matter had been going on a long time. The licence was permissive and Mr Hawkings stated he had endeavoured to obtain evidence to put before the Committee to the best of his ability but licensing was not his profession. If there was a sparsity of information it was because of his limited time and expertise.

Mr Hallett stated that he had lived at his home since 2001. If there had been a problem in the past he would have raised it. The issues had been in the last 5/6 years. He had no personal issue with the premises. Mr Pearcey had tried to contact him prior to the meeting but he did not feel it was appropriate to meet at that stage. He was concerned the application was retrospective. His main concern was noise and noisy use of the carpark late at night and if another source of alcohol was made available it would elevate the noise problem.

The Chairman then invited questions to the objectors. Mr Pearcey expressed concerns about the moving of the noise monitor and stated that, if this had recorded higher noise levels, it could have been used against him. He was concerned his business was being reported in a bad light. The Chairman commented that this was not really a matter for consideration by the Committee. There were clearly a number of issues involving noise and these needed to be addressed by the objectors through the appropriate responsible authorities. Mr Pearcey commented again that his character was being discredited and the allegations untrue and he felt the need to defend himself when such strong representations were being made. The objectors challenged the issue of the relevance of noise, stating that noise was a relevant consideration having regard to the prevention of public nuisance

licensing objective. The Council's legal advisor confirmed that noise was a relevant consideration having regard to the public nuisance licensing objective but had to be associated with the variation application and not relate to other noise concerns such as the DJ and music from the main building.

A Member asked the objectors if they had reported noise concerns to Environmental Health and if they appreciated that noise emanating from other areas was not relevant to the matter being considered as part of the current variation application. The objectors commented that noise did emanate from the terrace from people gathering. Noise complaints were reported to Environmental Health but their standard response was that no other complaints had been made. Mr Pearcey commented that this statement was unfair as he was aware from Mr Duke at Environmental Health that a number of complaints of noise had been made to the Council.

The Chairman reminded all present that she had been very lenient in allowing all present to make their representations even though many of them could not be taken into account as they were not relevant to the matter before them.

Mr Pearcey asked Mr Allison if he agreed that noise came from music and not from use of the balcony to which Mr Allison replied yes. Mr Pearcey stated he had other questions which he wanted to ask to address some of the claims made by the objectors but he felt these would antagonise the situation further and so he would leave them. He hoped he could move forward and sit down with his neighbours to discuss matters further.

The Chairman then invited closing statements.

Mr Hawkings commented that there was not just one remedy; it was not just a concern of Environmental Health but also a concern of the licensing authority.

The Chairman assured the objectors that the Committee would be mindful of any noise issues associated with the application.

The Food, Safety and Licensing Team Manager reminded all present of the facility to request a review of the licence.

The applicant stated that he hoped to use this opportunity as a building block with his neighbours to work together in the future.

All parties present, with the exception of the Committee Members, the Legal Advisor and the Committee Officer, then left the meeting whilst Members discussed the matter. All parties, with the exception of the Town Council representative and one of the objectors who had had to leave, were then re-admitted to the meeting and advised of the Committee's decision, as follows:

The Committee has determined the application in accordance with the Licensing Act 2003, the Section 182 Guidance (as amended March 2015), the Council's Licensing Policy and all the evidence both written and oral. The Committee has also had due regard to the public sector equality duty and feels its decision will not harm any persons with a relevant protected characteristic.

The applicant had confirmed the suggested conditions from Norfolk Constabulary were agreed and were part of the operating schedule as follows:

- When security staff are employed at the venue, they will patrol the terrace area to ensure doors are kept closed, monitor patrons and ensure noise levels are kept to a minimum;
- Notices will be on display on the terrace requesting that patrons keep the noise down and give consideration to residents.

The Committee gave weight to the fact there had been no objection from the Police, especially with regard to the crime and disorder licensing objective, and also gave weight to the fact that there was no objection from Environmental Health in terms of the prevention of public nuisance licensing objective.

The Committee had received and heard much evidence outside the terms of the application for the variation and considered only matters which were relevant to the application before them.

The Committee noted that the garden was not included in the application. The terrace and marquee which formed part of the application were already being used by the public for the consumption of alcohol and the hours of use were not extended by the application.

The Committee did not feel there would be an increase in noise nuisance from members of the public if the area was licensed for the sale of alcohol as per the application.

The Committee noted that the applicant had agreed to conditions required by the Police and did not feel it was necessary to impose any further conditions to support the licensing objectives. The decision of the Committee was therefore that the application (as amended to include the Police conditions) for the variation to change the present licence on the terrace and the terrace marquee from the consumption only of alcohol to include the sale of alcohol be agreed.

All present were advised that there was a right of appeal against the decision, details of which were contained within Schedule 5 of the Licensing Act 2003, and must be exercised within 21 days from the date of the written decision.

The meeting closed at 6:10 pm

Quasi-judicial procedure rules

Suspension and revocation of Private Hire Vehicle Driver's licences

The Committee comprises 3 district councilors, at least 2 of which must be present at each hearing.

The Council may suspend, revoke or refuse to renew a driver's licence on the following grounds:

- (1) The driver has, since the grant of the licence, been convicted of an offence involving dishonesty, indecency or violence.
 - (2) The driver has, since the grant of the licence, been convicted of an offence under or has failed to comply with the provisions of the Town Police Clauses (1847) or Local Government Miscellaneous Provisions (1976) Acts.
 - (3) Any other reasonable cause.
-

1 Opening remarks by the Chairman of Committee

- 1.1 The Chairman will introduce those present at the hearing and will ensure that all present understand the procedure to be followed.
- 1.2 The Chairman will give a brief outline of the nature of the matter to be considered.

2 The Council's Case

- 2.1 The Council's representative will present its case.
- 2.2 The Council's representative may then be questioned by the following in the order shown:
 - (1) the Private Hire Vehicle Driver or his representative;
 - (2) the Council's legal representative;
 - (3) the representatives of consultees (eg Police, general practitioner) and
 - (4) the members of the Committee.

3 The Private Hire Vehicle Driver's Case

- 3.1 The Private Hire Vehicle Driver or his representative will present their case.

3.2 The Private Hire Vehicle Driver or his representative may then be questioned by the following in the order shown:

- (1) the Council's representative and / or legal representative;
- (2) the representative of any consultee (eg the Police, general practitioner) and
- (3) the members of the Committee.

4 Representatives / Consultees

4.1 The representatives of any consultees present shall then each present their case.

4.2 The representatives of any statutory consultees present may then each be questioned by the following in the order shown:

- (1) the Private Hire Vehicle Driver or his representative;
- (2) the Council's representative and / or legal representative;
- (3) the representative of any other consultee and
- (4) the members of the Committee.

5 Closing Statements

5.1 Closing statements will then be made in the following order:

- (1) the Council's representative and / or legal representative;
- (2) the representative of each consultee and
- (3) the Private Hire Vehicle Driver or his representative.

5.2 All persons present, with the exception of members of the Committee, the advisor and the clerk, will then leave the meeting.

6 The Committee's Decision

6.1 The Committee will discuss the matters under consideration and determine by voting, the action to be taken.

6.2 In the event of an equality of votes, the Chairman has a second or casting vote.

6.3 During the decision making process, the Committee may seek the advice and guidance of its clerk and advisor.

- 6.4 All persons referred to in paragraph 5.2 above, will be asked to re-join the meeting. The Chairman will announce the Committee's decision with a summary of the reasons why if the application is refused or special conditions are added.
- 6.5 The Private Hire Vehicle Driver will be provided with a full written copy of the Committee's decision within 5 working days of the hearing.
- 6.6 In the event of a decision that is of disbenefit to the Private Hire Vehicle Driver, the Committee must clearly state the reasons how the Committee reached its decision.
- 6.7 The Private Hire Vehicle Driver should be advised that he has a right of appeal to the Magistrates' Court within 21 days of receiving the written decision.

Pages 25 to 36
are not available to the public because the
information is confidential.

They will be provided separately to
Members of the Committee.

Quasi-judicial procedure rules

Applications for a Private Hire Vehicle/Operator/Driver's Licence

The Committee comprises 3 district councillors, at least two of which must be present at each hearing.

When dealing with applications, the rules of natural justice must be seen to be applied, in that the applicant must be afforded an opportunity to present their case. Thus, when determining an application, the Committee will be required to act in a judicial manner and to conduct the proceedings in accordance with the following rules.

1 Opening remarks by the Chairman of the Committee

- 1.1 The Chairman will introduce those present at the hearing and will ensure those present understand the procedure to be followed.
- 1.2 The Chairman will give a brief outline of the nature of the matter to be considered.

2 The Council's case

- 2.1 The Council's representative will present its case.
- 2.2 The Council's representative may then be questioned by the following in the order shown:
 - (1) the applicant or his representative;
 - (2) the Council's legal representative;
 - (3) the representatives of statutory consultees (eg police, general practitioner) and
 - (4) the members of the Committee.

3 The applicant's case

- 3.1 The applicant or representative will present his case.
- 3.2 The applicant or representative may then be questioned by the following in the order shown:
 - (1) the Council's representative and / or legal representative;
 - (2) the representatives of any consultees (eg police, general practitioner), and
 - (3) the members of the Committee.

4 Representatives / consultees

- 4.1 The representatives of any consultees present shall then each present their case.
- 4.2 The representatives of any statutory consultees present may then each be questioned by the following in the order shown:
- (1) the applicant or his representative;
 - (2) the Council's representative and / or legal representative;
 - (3) the representative of any other statutory consultee, and
 - (4) the members of the Committee.

5 Closing statements

- 5.1 Closing statements will then be made in the following order:
- (1) The Council's representative and / or legal representative;
 - (2) The representative of each of the statutory consultees, and
 - (3) The applicant or his representative.
- 5.2 All persons present, with the exception of the members of the Committee, the advisor and the clerk, will then leave the meeting.

6 The Committee's decision

- 6.1 The Committee will discuss and then vote on the application.
- 6.2 In the event of an equality of votes, the Chairman has a second or casting vote.
- 6.3 During the decision making process, the Committee may seek the advice and guidance of its clerk and advisor.
- 6.4 All persons referred to in paragraph 5.2 above will be asked to re-join the meeting. The Chairman will announce the Committee's decision with a summary of the reasons why if the application is refused or special conditions are added.
- 6.5 The applicant will be provided with a full written copy of the Committee's decision within 5 working days of the hearing.
- 6.6 If the application is refused, the decision must state clearly the reasons why.
- 6.7 Where an application is granted, the Committee should, where applicable, advise the applicant if any special conditions are imposed.
- 6.8 Where an application is refused or the grant of a licence is subject to the imposition of any special term, condition or restriction, the applicant should be advised that he has a right of appeal to the Magistrates' Court within 21 days of receiving the written decision.

Pages 39 to 54
are not available to the public because the
information is confidential.

They will be provided separately to
Members of the Committee.

Pages 55 to 59
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Members of the Committee.