



East Cambridgeshire District Council

Minutes of a Meeting of the Licensing Committee

Held at The Grange, Nutholt Lane, Ely, CB7 4EE at 10:00am
on Wednesday 13 December 2023

Present:

Cllr Chika Akinwale (substitute for Cllr John Trapp)
Cllr Charlotte Cane
Cllr Lavinia Edwards
Cllr Martin Goodearl
Cllr Keith Horgan
Cllr Julia Huffer
Cllr Bill Hunt (substitute for Cllr Christine Ambrose Smith)
Cllr Mark Inskip
Cllr Kelli Pettitt
Cllr Gareth Wilson

Officers:

Stewart Broome – Senior Licensing Officer
Maggie Camp – Director Legal Services
Liz Knox – Environmental Services Manager
Angela Tyrrell – Senior Legal Assistant
Hannah Walker – Trainee Democratic Services Officer

In attendance:

Karen Wright – ICT Manager

11. Apologies and substitutions

Apologies for absence were received from Cllr Ambrose Smith, Cllr Trapp, and Cllr Whelan.

Cllr Akinwale and Cllr Hunt were attending as substitutes.

12. Declarations of interest

No declarations of interest were made.

13. Minutes

The Committee received the Minutes of the Licensing (Statutory) Sub Committee meeting held on 1 June 2023, and the Licensing Committee meeting held on 8 November 2023.

It was resolved unanimously:

That the Minutes of the Licensing (Statutory) Sub Committee meeting held on 1 June 2023, and the Licensing Committee meeting held on 8 November 2023 be confirmed as a correct record and be signed by the Chairman.

14. Chairman's announcements

The Chairman wished Members a Happy Christmas and New Year.

15. Taxi Licensing Policy Update

The Committee considered a report, Y109 previously circulated, that detailed the results of the Taxi Licensing Policy consultation exercise. Members were presented a report and draft proposals to update the Council's Taxi Licensing policy which went to consultation between 11 September 2023 and 3 November 2023 to the following consultees: all licence holders, those registered on the Council's consultee mailing lists, all parish, town and city Councils, all ward Councillors, Cambs County Council, National Private Hire Association, Cambridgeshire Constabulary, Local and national disability and access groups, and members of the general public via the council's website, to which no consultation responses were received.

The Senior Licensing Officer outlined the proposals that were consulted on. Proposal one would increase the base model price of executive vehicles at point of manufacture from £35,000 to £50,000 as set out in Part 2 Section 2.23.1 and Appendix A Section 36.1 of the Officer's report. The Senior Licensing Officer explained that the proposal would keep the private hire executive market exclusive.

Proposal 2 would introduce the requirement for all new petrol and diesel vehicles (including petrol and diesel powered hybrids and LPG conversions) to be Euro 6 compliant as set out in Appendix A Section 3.1 of the Officer's report. This proposal would follow the Council's green agenda to lower emissions. The Senior Licensing Officer also stated that electric vehicle charging points were not readily available within the District but the proposal was a good step in the right direction, and that newer cars tended to be safer. Most of the fleet fell within Euro rating category 5 and 6, with 13 in total for category Euro rating 3 and 4.

Proposal 3 would introduce a 2-year deadline for all existing Euro 3 and a 5-year deadline for all Euro 4 and 5 petrol and diesel vehicles (including diesel and petrol powered hybrids and LPG conversions) to be Euro 6 compliant as set out in Appendix A Section 3.2 and 3.3 of the Officer's report. The Senior Licensing Officer clarified that anyone who currently had a vehicle in the fleet, could continue to licence for two years for a newer vehicle, and five years for Euro 3 and 4 vehicles. The proposal would give the trade time and flexibility to transition to new requirements, and brand-new licences would have to comply with Euro 6.

Proposal 4 would amend the rules regarding land line phones at operator bases as set out in Appendix F Section 21 of the Officer's report. The Senior Licensing Officer explained that Private Hire operator bases must have a land line phone installed at their base location. Most bookings were made via broadband internet connections and VOIP telephones, the amendment would give greater flexibility to the trade.

The Senior Licensing Officer concluded to say that the proposals, if approved, would support the Council's corporate objects of achieving a Cleaner, Greener East Cambridgeshire, and providing better safety standards and more passenger/driver comfort than older vehicles. The proposals would not have a financial impact on new or existing drivers, the only financial impact would be for those who applied for a new vehicle licence or renewed an existing non-compliant vehicle licence once the transitional period ended.

The Chairman invited questions to the Senior Licensing Officer.

Members queried what effect the proposals would have on specialist cars such as wedding and funeral cars. The Senior Licensing Officer confirmed that there were specific conditions for novelty vehicles such as limousines and converted fire engines, and that those vehicles were exempt from the requirement of the policy.

The Chairman opened the debate. Members commended the Officer's report and had no further questions.

It was resolved (unanimously):

1. That the base model price of executive vehicles at point of manufacture be increased from £35,000 to £50,000, as set out in Appendix A section 36.1 (page 39) of the report.
2. That a requirement for all new petrol and diesel vehicles (including petrol and diesel powered hybrids and LPG conversions) to be Euro 6 compliant be implemented, as set out in Appendix A section 3.1 (page 31) of the report.
3. That a 2-year deadline for all existing Euro 3 and a 5-year deadline for all existing Euro 4 and 5 petrol and diesel vehicles (including diesel and petrol powered hybrids and LPG conversions) to be Euro 6 compliant be introduced, as set out in Appendix A section 3.2 & 3.3 (page 31) of the report.
4. That the rules regarding land line phones at operator bases be amended, as set out in Appendix F, section 21 (page 66) of the report.
5. The policy be adopted in full.

16. Senior Licensing Officer's update

The Committee considered a verbal report to update Members that the Department for Transport Best Practice Guidance revision had been published on 24 November 2023, and therefore the Licensing Team would revisit the adopted policy to consider any changes that may need to be made because of the published guidance. In addition, an audit review was carried out in 2023 which highlighted that the Licensing Enforcement Policy was out of date and in need of review, which would come to Committee in the new year.

17. Forward agenda plan

The Committee received its Forward Agenda Plan. The Senior Licensing Officer and the Chairman agreed that the 17 January 2024 Licensing Committee meeting would be cancelled, with the next meeting scheduled for 14 February 2024.

It was resolved:

That the January 2024 Licensing Committee meeting would be cancelled, and the Forward Agenda Plan be noted.

The meeting concluded at 10:18am

Chairman.....

Date.....



East Cambridgeshire District Council

Minutes of a Meeting of the Licensing (Statutory) Sub Committee

Held at The Grange, Nutholt Lane, Ely, CB7 4EE at 10:00am
on Friday 24 November 2023

Present:

Cllr Charlotte Cane
Cllr Martin Goodearl (substitute for Cllr Lavinia Edwards)
Cllr Keith Horgan

Officers:

Stewart Broome – Senior Licensing Officer
Maggie Camp – Director (Legal Services)
Jane Webb – Senior Democratic Services Officer
Angela Tyrrell – Senior Legal Assistant

In attendance:

Mr Giles - Barrister (Representing Fordham Service Station & Licence Holder)
Mr Vijithran – Designated Services Supervisor - Fordham Service Station
Chief Immigration Officer Rose - Home Office Immigration Enforcement

Karen Wright – ICT Manager

1. Apologies and substitutions

Apologies for absence were received from Cllr Lavinia Edwards, and Cllr Goodearl was attending as a substitute.

2. Declarations of interest

No declarations of interest were made.

3. Application for the review of a premises – Licensing Act 2003 Premises: Londis, 31 Carter Street, Fordham, Ely, Cambs.

The Sub-Committee considered a report, Y94 previously circulated, to determine an application for the review of a premises licence held by ARUN Capital Limited in respect of Londis, 31 Carter Street, Fordham, Ely, Cambs CB7 5NG.

The Senior Licensing Officer explained that this Committee was originally scheduled for Monday 20 November 2023, and this was an adjourned hearing from that date to determine the application. A summary of the premises was provided, and it was highlighted that the convenience store, attached to and

forming part of the Fordham Petrol Service Station, was originally granted a premises licence on 29 September 2005. This licence was transferred to ARUN Capital Ltd on 25 January 2021.

Home Office Immigration Enforcement made an application to review the premises licence on 27 September 2023, under the Prevention of Crime and Disorder licensing objective. The Senior Licensing Officer explained that during the consultation period the Licensing Authority had received no representations from any responsible authorities or only one from other interested parties. This was a letter received in support of the Licence Holder.

Members were reminded that the application should be determined in accordance with promoting the four Licensing Objectives: The Prevention of Crime and Disorder; the Prevention of Public Nuisance; Public Safety; and the Protection of Children from Harm. Members were required to have regard to the Council's Statement of Licensing Policy and the Statutory Guidance issued under Section 182 of the Licensing Act 2003 when making their decision. Members were provided with the options available to them in determining the premises licence application, together with a summary of the key matters that had been presented to them. The Sub-Committee were asked to ensure that they provided reasons for their decisions and considered their responsibilities under the Human Rights Act 1998 to balance the rights of the applicant and the rights of those who may be affected. Members were able to determine a review application as follows:

- Reject the application (leave the licence as it stood)
- Modify the conditions of the Licence
- Exclude a licensable activity from the scope of a Licence
- Remove a Designated Premises Supervisor from the Licence
- Suspend the Licence, not exceeding a period of three months, or
- Revoke the License in its entirety

However, it must be appropriate to carry out one of the actions in order to promote one or more of the Licensing Objectives and must relate to the evidence presented. If Members were to consider conditions, they must be focused on the matters in control of the Applicant.

The Sub-Committee were informed that in determining the application, Members must consider:

- Article 6, The Right to a Fair Hearing
- Article 8, Respect for a Private and Family Life
- Article 1, First Protocol Peaceful Enjoyment of Possessions
- Article 14, The Right from Freedom of Discrimination

The Senior Licensing Officer ended his report by stating that the cost of the Licensing Hearing was covered by the statutory licence fees that had been paid and any party aggrieved could appeal the Sub-Committee's decision to the Magistrate's Court. The right of appeal was 21 days from the date of notification of the decision, which could be made up to five working days from the date of the hearing.

The Chairman invited questions to be asked of the Senior Licensing Officer.

Cllr Horgan asked if the mandatory conditions, as listed in Appendix 1 of the Officer's report, were applicable to the licence; it was confirmed that these were applicable.

The Chairman invited the applicant, Chief Immigration Officer Rose from the Home Office, to present her case.

Chief Immigration Officer Rose apologised for the Home Office's delay which had resulted in the hearing being reconvened. She highlighted that Immigration Enforcement were intelligence-led and there needed to be significant concerns for any action to be taken. Licensing Reviews were only sought in selected cases where there was heightened concern, as in this case with the increasing prevalence of the use of illegal labour within small, licensed premises across East Anglia, as there had been a number of licensing reviews in Cambridgeshire, Suffolk, and Norfolk over the last three months. There was an added concern which had been raised by the comments of an employee (who had subsequently been arrested) that the individual had worked at the premises for the last eighteen months and had been paid £8 per hour in cash, which was 'off the books' and below the minimum living wage. It was the Home Office's role to bring these concerns to the attention of the Licensing Authority.

Chief Immigration Officer Rose explained that Immigration Enforcement had received an allegation of illegal workers being employed which had resulted in an enforcement visit being made on 25 May 2023. On arrival, there were two members of staff present, one of which was subsequently arrested, he had been seen at the till service counter and had been wearing a shop branded shirt. When interviewed, the member of staff informed Immigration Enforcement that he was a student, living in the UK and records showed he had a valid student visa allowing him to work a maximum of 20 hours a week during term time. He admitted he had been working approximately 30 hours a week for the last eighteen months and paid £8 per hour and had given up his studies with the sole purpose of working in the UK.

Chief Immigration Officer Rose ended her case by stating that the Home Office did not want to be involved in the unnecessary restriction of a genuine community service, however, there were concerns on the way the business was run and there needed to be a significant way to ensure that this would not be repeated and to ensure that other businesses were fully compliant with legislation. The statutory guidance suggested that the revocation of a licence should be considered at a first offence, however, the Home Office accepted that this was a limited breach, and the business had not had a civil penalty imposed, although this was a separate matter and irrelevant as to how the Sub-Committee should consider the licensing objectives. The Home Office suggested that the most serious aspect of the case was not only the employment breach of the immigration rules, but the matter of paying off the books and below the minimum wage. The Sub-Committee might want to consider a revocation of the licence which would send a firm message to the business and other businesses in the area.

The Chairman invited questions to be asked of Chief Immigration Officer Rose.

Cllr Cane asked why the Home Office had decided not to take any further action given their concern over the increasing prevalence of the use of illegal workers across East Anglia. Chief Immigration Officer Rose responded stating she could not answer the question. Cllr Cane also enquired if evidence had been found of other potential illegal workers employed at the premises, the Chief Immigration Officer Rose confirmed she had not attended the visit, but the notes showed that only one person was working illegally on the premises.

Mr Giles, Barrister, asked the following questions:

- Was it correct at the time of the individual's arrest, that there were no restrictions on his right to work in the UK as it was during vacation time. Chief Immigration Officer Rose confirmed that the arrested person, by his own admission, was in the UK to work and his visa was to study in Bournemouth. There was no forthcoming evidence of term time dates for Bournemouth and therefore this could not be verified.
- Could the Home Office confirm that it was from 6 April 2022 that holders of a biometric residence permit could only evidence the right to work using the Home Office online service. Cllr Horgan commented that the answer to this question was within the pack.
- Could the Home Office confirm that every student that arrived in the UK to study was allowed to work a maximum of 20 hours term time and outside of term time, it was unrestricted. (This was not answered.)
- Was it correct that the individual arrested, told the Home Office that he had been working at the premises for 18 months. Chief Immigration Officer Rose confirmed that this was written in the notes from the visit.
- Would the Home Office confirm that in contrast to the 18-month period of employment the individual claimed to have worked, the Londis shop had stated that the individual commenced work in September 2022. Chief Immigration Officer Rose stated she could only confirm what was written in the admission. Cllr Horgan added that the written evidence showed a difference of opinion from the individual and from the follow up questions asked of the management of Fordham Station.
- Could the Home Office confirm that Londis could have avoided a review if it had conducted the proper right to work checks and adhered to the restrictions of the Visa. Chief Immigration Officer Rose stated she was not able to answer the question.

Cllr Horgan asked the following questions:

- Was the other staff member present at the time the visit took place also present at the hearing today. Chief Immigration Officer Rose stated she was not part of the visit but confirmed it was Mr Vijithran.
- Was there any record that the arrested person had been involved in the sale of alcohol or hot/cold beverages at night. Chief Immigration Officer Rose confirmed that timesheets had been taken but these were illegible, and the Home Office did not have the originals.

- Could the Home Office confirm when the records started, was there evidence of hours or days worked and did those dates pre-date 25 September 2022. Chief Immigration Officer Rose confirmed that the timesheets were illegible, and the Home Office were unsure that any evidence was held that showed the worker worked prior to 25 September 2022.
- Had the Home Office attempted to view CCTV footage to check if the individual had worked prior to September 2022; no evidence could be provided.
- Did the Home Office have any evidence to show that the DPS had conducted the proper checks with the education sponsor directly to determine term times or holidays; no evidence could be provided.
- Did the Home Office have any evidence to show that the individual was paid in cash or were checks made with HMRC to look for evidence under a PAYE system; no evidence could be provided.
- Why were the Home Office concerned with the gas cylinders stored upstairs and the alcohol stored on the stairs. Chief Immigration Officer Rose stated she was unsure why but understood that the stairs needed to be clear.
- Had the Home Office's opinion changed since submitting the review and now, the Chief Immigration Officer replied not to her knowledge.
- The Home Office report suggested an offence could only be committed with neglect or co-operation of a premises Licence Holder or its agents to which Chief Immigration Officer Rose answered stating she did not have an opinion and was just following the guidance.
- Were the interview questions asked on Page 29, of the Licence holder; Chief Immigration Officer Rose confirmed that was correct.

The Director (Legal) asked why a review was submitted on 27 September 2023 by the Home Office, when a No Action Notice was issued on 6 September 2023; the Chief Immigration Office Rose stated she could not answer the question.

The Chairman invited Mr Giles, Barrister, to present his case.

The No Action Notice was issued on 6 September 2023 and stated that the individual arrested had no restrictions on his right to work in the UK as it was during his vacation time. The individual concerned had produced a biometric residential permit (BRP), however the Home Office had given advice stating there was a need for the employer to check the student's term and vacation dates from the student's education sponsor. Unfortunately, confirmation was not sought, and his client had accepted that this was remiss of them. The Home Office had also advised that the Code of Practice on preventing illegal working stated that holders of a BRP could only be evidenced using the Home Office online service; therefore, a physical BRP could not be accepted after 6 April 2022. His client had stated the individual started work in September 2022 and they had only carried out physical checks on the BRP and not the online check as required, yet the Code of Practice was very explicit about this requirement.

The individual started work in September 2022 and was not an illegal worker, he worked legally and within the termtime restriction of 20 hours and outside termtime with no restriction.

The Home Office's decision to take no action in relation to the alleged illegal worker was taken in June 2023 and yet the Home Office application to review the licence referred to "a referral being made to the Home Office Civil Compliance Team to consider a penalty of £20,000", yet by the time this was submitted, it had already been decided that the penalty would not be pursued. However, Mr Giles explained that his client took this matter seriously, and realised what they had and had not done. The Manager accepted the three-stage check was carried out but only on the physical documents and a mistake was made by recording the individual working 30 hours per week during term time. He claimed this was an oversight and he had been given a warning by the Managing Director and apologised for the mistakes.

Mr Giles summed up stating these mistakes had been an oversight and only one of the licensing objectives had been engaged (Prevention of Crime), yet none of the more serious aspects of the licensing policy considerations arose in this situation, it was an isolated incident on an unblemished record. He therefore asked the Sub-Committee to take no action in this regard.

The Chairman invited questions to be asked of Mr Giles, Barrister.

Cllr Goodearl asked:

- Did his client knowingly accept that the student would have worked more hours than authorised during termtime/eight months. Mr Giles confirmed that his client acknowledged, regrettably, that some of the work would have been during term time and the student would have worked more than 20 hours.
- Who authorised the employment and the cash payments. Mr Vijithran authorised the employment; it was correct that the individual was paid in cash, however the suggestion that the individual was working off the books was not accepted.
- Was Arun Capital Ltd aware of the cash payments being made to the employee, Mr Giles confirmed that they were aware.
- How were the cash payments documented and PAYE/NI paid. Mr Vijithran explained that when the individual joined in September, they also charged him £300 per month rent as he lived upstairs, which was taken directly from his wages before being paid. In May, the employee had still not provided a NI number and had informed him there had been a delay from HMRC. Therefore, his earnings were recorded with the intention of submitting the NI payments once a NI Number was received.
- Mr Vijithran explained that he had not known he could not employ the individual with no NI Number, he thought he could register him to work whilst he applied for his NI Number.

Cllr Cane asked the following questions:

- Were you deducting tax and forwarding this payment onto HMRC; Mr Vijithran stated that it was not necessary as the individual would have earned under the £12,000 tax bracket.
- Did the Company not realise that tax should have been deducted from the employee until a code was received from HMRC; Mr Vijithran responded stating he had estimated the amount of tax needed and reserved it.
- The employee was entitled to be paid the minimum wage; Mr Vijithran explained that £8 was not his hourly rate as he had already taken the tax off.
- What record did the employee receive to show how much he had been paid; Mr Vijithran stated that he had explained to the employee that £8 was the net wage and the remainder would be worked out once his NI number had been received.
- Why were the gas bottles being stored upstairs where the employee was living; Mr Vijithran explained these were empty cylinders and were stored temporarily upstairs as they had no room at the garage.
- How was stock control managed as there was alcohol stored on the stairs; Mr Vijithran explained there was no storeroom and they had bought in bulk when items were on promotion. They had since learnt from this mistake and no longer bulk bought promotional items, so they no longer stored stock on the stairs.
- How was stock control managed if there was not a secure storeroom; Mr Vijithran explained the shop had an automatic electronic stock control system.

The Legal (Director) enquired as to why the employee was paid in cash. Mr Vijithran explained this occurred due to the bank charging 90p per £100 paid into the bank account, therefore they paid the staff in cash to recirculate the money and not incur bank charges.

Cllr Horgan asked the following questions:

- Was Mr Giles an employee of David Benson Solicitors; Mr Giles confirmed that he was self-employed and had accepted instructions from the solicitors.
- Had Arun Capital Limited complied with the guidance and kept copies of the individual's passport and other documents securely; Mr Giles referred to several copies of documents and stated these had been retained. The online check had been carried out three days after the individual had been arrested as Mr Vijithran had wanted to double check that the individual was able to work in the UK, which he was.
- It was confirmed that the omission made, was not to carry out an online check and not to request the university term and vacation dates.
- Were the staff of Arun Capital Limited familiar with the Employer's Right to Work check list and processes published by UK Visas and Immigration. It was confirmed that these proceedings had helped Mr Vijithran's understanding of the processes, and he now understood the correct process very well.

- What was the mistake referred to in the letter from David Benson Solicitors Ltd to the Civil Penalty Compliance Team. Mr Giles commented that he did not rely on that sentence, and it was his understanding that it referred to the fact that the individual had not provided the employer with the dates required and had continued to work for more than 20 hours a week, when he should not have; but the obligation around these rules was on the employer not the employee.
- Why were there no records detailing PAYE in order that it could be established beyond reasonable doubt that the employee may have been paid a net wage. Mr Giles stated that his work, as a Barrister, had focused on the employment hours and not the cash details and explained that Mr Vijithran had been open with the Home Office about accounting the tax to the HMRC and they had not followed this up.
- The Letter of Authority referred to a 'daughter', who was this; Mr Giles explained this was a typographical error which was not relevant to the review and should not have been included within the bundle.
- How many years had Mr Vijithran been a DPS; Mr Vijithran responded stating he had been a DPS for more than ten years.
- Could Mr Vijithran confirm that the ten workers employed all had a right to work in the UK; Mr Vijithran confirmed that they did.
- Mr Giles confirmed that Mr Ramadoss started employment in September 2022 and that Mr Vijithran now understood that the right to work checks he carried out were different to the process he should have undertaken. Mr Vijithran explained he had subscriptions and training that kept him updated on Health & Safety concerns and licensing issues which he then passed onto his colleagues; this was last carried out approximately 18 months ago.
- Had Mr Vijithran received any training after the process had changed on 6 April 2022 to which Mr Vijithran explained he had not received any training regarding employment issues, he received that knowledge from his employers and managing directors.
- Why had Mr Vijithran not verified the term dates from the employee; Mr Vijithran stated he had forgotten to track the issue and accepted he should have chased it.
- At the time the individual was employed, who did Mr Vijithran report to; he explained he had reported to the Managing Director since 2005/6.
- Mr Vijithran confirmed that he rented a room out upstairs and he had not had to sought permission to do so. He added that he had received no training regarding renting, and he had not provided a rent book. He explained that the £8 hourly rate was after deductions for tax and rental costs had been taken. The upstairs accommodation had consisted of five rooms with two people living in the accommodation, with an external staircase providing a private entrance to the property.

The Chairman invited Mr Giles, Barrister to sum up his case:

Mr Giles explained that his client had accepted that mistakes had been made when an individual had been employed during termtime for more than 20 hours a week. There had been no response from the Fire Authority with regard to any

fire safety issues, only a letter of support received from the client's landlord. Mr Giles added that the mistake was made in that the correct Right to Work checks had not been carried out, but the employee was not an illegal worker and in his opinion this case did not raise any matters of concern and he therefore urged the Sub-Committee to take no further action on this occasion in respect of the review.

The Chairman checked that all parties felt they had had a fair chance to state their opinions, and he reiterated that up to 5 days were allowed for the communication of the Sub-Committee's decision. He then closed the public session of the meeting at 12:17pm for the Sub-Committee Members (together with their Legal Advisor) to retire to a closed session to consider the evidence and reach a decision.

**NOTICE OF DETERMINATION OF LICENSING SUB-COMMITTEE HEARING
DECISION NOTICE**

<u>Date of Hearing:</u>	Friday 24th November 2023
<u>Sub-Committee Members:</u>	Councillor Keith Horgan (Chairman) Councillor Martin Goodearl Councillor Charlotte Cane
<u>Officers</u>	Jane Webb – Senior Democratic Services Officer Stewart Broome – Senior Licensing Officer Maggie Camp - Director (Legal Services) Angela Tyrrell - Senior Legal Assistant
<u>Applicant:</u>	Home Office Immigration Enforcement represented by: Chief Immigration Officer Rose
<u>Licence holder:</u>	ARUN Capital Limited represented by Mr Giles (Appointed Barrister) and accompanied by Mr Sakhivel Vijithran, the premises Designated Premises Supervisor
<u>Responsible Authorities:</u>	None
<u>Other Persons:</u>	None
<u>Application by:</u>	Home Office Immigration Enforcement
<u>Premises Address:</u>	Londis, 31 Carter Street, Fordham, Cambridgeshire CB7 5NG.
<u>Date of Application:</u>	Wednesday 27th September 2023
<u>Details of Application:</u>	Application to review the Premises Licence under Section 51 of the Licensing Act 2003.

ORAL AND WRITTEN EVIDENCE PRESENTED TO THE HEARING

Written Evidence

The Sub-Committee members have read the material presented to them and listed below:

The Licensing Officer's Report - this included:

1. A copy of the Applicant's application form and their supporting documentation;
2. A copy of the existing licence for Londis held by ARUN Capital Limited;
3. A copy of a representation supporting the Licence Holder;
4. A location plan of the premises;
5. Section 182 Statutory Guidance extracts;
6. Local Statement of Licensing Policy extracts.

The Licence Holder

A defence bundle provided by the Licence Holder after the report had been published, but prior to the start of the hearing.

Oral Evidence

The Sub-Committee members heard the following oral evidence:

The Licensing Officer

The Licensing Officer presented the report.

The Applicant

The Applicant's agent Chief Immigration Officer Rose provided an overview of their application, explaining why they considered it necessary to apply to review the licence, and then answered questions from Members, officers, and the licence holder's representative Mr Giles through the Chairman.

The Licence Holder

The Licence Holder's agent Mr Giles presented his client's case, explaining why they felt the application was not justified, and then answered questions from Members, and officers. During this stage of the hearing certain questions were deferred by Mr Giles to Mr Sakthivel Vijithran to answer.

The following Guidance was considered:

East Cambridgeshire District Council Statement of Licensing Policy – 7th January 2021 Revised Guidance issued under section 182 of the Licensing Act 2003 – August 2023

DECISION

The decision of the Licensing Sub-Committee (in exercise of the powers delegated by East Cambridgeshire District Council as Licensing Authority) was to:

REVOKE the premises licence held by ARUN Capital Limited in respect of Londis, 31 Carter Street, Fordham, Ely, Cambridgeshire CB7 5NG due to their failure to uphold and promote the licensing objective of the Prevention of Crime and Disorder, pursuant to the Licensing Act 2003.

REASONS FOR THE DECISION

1. In making their decision, the Sub Committee had regard to the four licensing objectives, namely the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. The Sub Committee agreed that the licensing objective of the prevention of crime and disorder was engaged and the Premises Licence Holder had failed to uphold and promote this.
2. This was evidenced by :
 - The Premises Licence holder's failure to follow the requirements in relation to the right to work checks in force at the time of the employment of the employee alleged to be working in breach of his student visa;
 - The Premises Licence holder's failure to follow up on basic activities of establishing term dates for the employee as required by Annex B of the Home Office Guidance and for which online guidance is available and should be part of "business as usual" practices. It is clear from the guidance that the emphasis is very much on the employer to obtain this information and there had been a failure to obtain this;
 - Oral evidence given at the hearing raised considerable concern that the Licence Holder failed to follow appropriate HMRC rules and regulations to ensure the correct payment of tax, the level of salary provided to a particular employee, NI deductions and the correct keeping of records in relation to such matters. This evidence, in addition to that regarding the employment of a potentially illegal worker, pointed to a culture of a disregard for legislation and the need to comply with UK law;
 - No written evidence was available before, or provided during the hearing, in relation to good record keeping in relation to employment matters;
 - General poor level of management practices; and
 - The Licence holder acknowledged their mistake regarding the hours permitted to be worked by the employee as 30 instead of 20; however, evidence was provided that indicated that the employee was working in excess of 30 hours in some weeks.
3. Members noted that the Home Office had not pursued a penalty against the Premises Licence holder under immigration legislation but had pursued a review of the Premises Licence. The application details that the Licence Holder could have avoided the review if it had conducted the proper right to work checks and adhered to the restrictions placed on the employee's visa. The supporting documentation details that the use of illegal labour provides an unfair competitive edge and deprives the UK economy of tax revenue, which cannot be taken lightly.

4. Having considered all the evidence presented, the Sub-Committee determined that the Premises Licence Holder had failed to uphold and promote the Licensing objective of the Prevention of Crime and Disorder and consequently, for all the above reasons, the Premises Licence should be revoked.

RIGHTS OF APPEAL

The Applicant or any persons who made a relevant objection have a right of appeal against this decision. Notice must be given to the Clerk to the Cambridge Magistrates' Court, The Court House, Bridge Street, Peterborough PE1 1ED within 21 days of notification of the Licensing Sub-Committee's decision. Email: cb-enquiries@hmcts.gsi.gov.uk

Chairman.....

Date.....



East Cambridgeshire District Council

Minutes of a Meeting of the Licensing (Statutory) Sub Committee

Held at The Grange, Nutholt Lane, Ely, CB7 4EE at 10:00am
on Thursday 7 December 2023

Present:

Cllr Charlotte Cane
Cllr Lavinia Edwards
Cllr Keith Horgan

Officers:

Stewart Broome – Senior Licensing Officer
Angela Tyrrell – Senior Legal Assistant
Hannah Walker – Trainee Democratic Services Officer

In attendance:

Karen Wright – ICT Manager

11. Apologies and substitutions

There were no apologies nor substitutions for this meeting.

12. Declarations of interest

No declarations of interest were made.

13. Application for the review of a premises – Licensing Act 2003

**Premises: TR Events, Sunnyridge Farm, 10 Mill Road, Lode,
Cambridge, CB25 9EN**

The Sub-Committee considered a report, Y108 previously circulated, to determine an application for the review of a premises licence held by Douglas Durrant in respect of TR events, Sunnyridge Farm, 10 Mill Road, Lode, Cambridge, CB25 9EN.

The Senior Licensing Officer explained the background of the application, the site benefitted from an existing Premises Licence held by Douglas Durrant issued under the Licensing Act 2003 called Lodestar for a festival event capacity of 14,999. The Lodestar festival itself had not been run for a number of years but did not affect the validity of the licence and would not have an impact on the decision at today's Sub-Committee.

The Premises Licence was applied for by Mr Durrant on 25 October 2023 under section 17 of the Licensing Act 2003 for Sunnyridge Farm, 10 Mill Road, Lode trading as TR events to run the premises as an outdoor marquee for private events. Due to a few clerical errors the Licensing Authority were unable to validate the application until 27 October 2023, and therefore the consultation period ran until 24 November 2023.

Members were reminded of the licensable activities and proposed hours in Table 1 within the Officer's report. During the consultation period the Licensing Authority received three representations from responsible authorities from Cambridgeshire Constabulary, and both Environmental Health – Domestic and Commercial. The applicant had agreed to the amended list of conditions in Appendix 5 of the Officer's report.

Members were reminded that the application should be determined with a view to promoting the four licensing objectives: the prevention of crime and disorder; the prevention of public nuisance; public safety; and the protection of children from harm. Members were required to have regard to the Statutory Guidance issued under Section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy.

Members were provided with the Officer's recommendations to determine the review application, and have regard to the considerations as follows:

- No representations were received from "other persons" defined by the Act.
- An agreement had been reached between all parties.
- Officers considered the amendment to conditions would have no adverse effects on the general public or any responsible authority.
- Both the applicant and those who submitted representations have agreed to dispense with a formal sub-committee hearing, as a result of the amendments in Appendix 5 of the Officers report.

The Senior Licensing Officer concluded that Members must provide the reasons for their decisions and consider their responsibilities under the Human Rights Act 1998. The applicant could appeal the Sub-Committee's decision at the Magistrate's Court. The right of appeal was 21 days from the date of notification of the decision and there would be costs associated with the process.

Cllr Horgan asked the Senior Licensing Officer to confirm the existence of the Event Management Plan (EMP). The Senior Licensing Officer confirmed that Appendix 5 of the report included the amended conditions for 2023, he confirmed that on the day before the Sub-Committee meeting at 4:30pm he received confirmation that the EMP was agreed by all responsible authorities and expects the applicant to hold the events according to the agreed plan.

The Chairman explained that the Sub-Committee Members plus the Senior Legal Assistant would be going into a closed session to discuss the application and come to its decision and all parties would be notified within 5 days.

The meeting closed at 10:15am.

**EAST CAMBRIDGESHIRE DISTRICT COUNCIL
LICENSING ACT 2003
NOTICE OF DETERMINATION OF LICENSING SUB-COMMITTEE HEARING
DECISION NOTICE**

Date of Hearing:	Thursday 7th December 2023
Sub-Committee Members:	Councillor Keith Horgan (Chairman) Councillor Lavinia Edwards Councillor Charlotte Cane
Officers	Hannah Walker – Trainee Democratic Services Officer Stewart Broome – Senior Licensing Officer Angela Tyrrell - Senior Legal Assistant
Applicant:	Mr Douglas Durrant
Responsible Authorities:	None
Other Persons:	None
Application by:	Mr Douglas Durrant
Premises Address:	T R Events, Sunnyridge Farm, 10 Mill Road, Lode, Cambridgeshire CB25 9EN.
Date of Application:	Friday 27th October 2023
Details of Application:	Application for a new Premises Licence under Section 17 of the Licensing Act 2003.

ORAL AND WRITTEN EVIDENCE PRESENTED TO THE HEARING

Written Evidence

The Sub-Committee members have read the material presented to them and listed below:

The Licensing Officer's Report - this included:

1. A copy of the Applicant's application form and their supporting documentation;
2. A copy of the representations submitted by the responsible authorities;
3. A location plan of the premises;
4. A copy of the agreed amended conditions
5. Section 182 Statutory Guidance extracts;
6. Local Statement of Licensing Policy extracts.

Oral Evidence

The Sub-Committee members heard the following oral evidence:

The Licensing Officer

The Licensing Officer presented the report, and answered Member questions.

The Applicant

Not present

The responsible authorities

Not present

The following Guidance was considered:

East Cambridgeshire District Council Statement of Licensing Policy – 7th January 2021

Revised Guidance issued under section 182 of the Licensing Act 2003 – August 2023

DECISION: Members of the Licensing Sub-Committee (in exercise of the powers delegated by East Cambridgeshire District Council as Licensing Authority) decided to:

GRANT the Premises Licence to Mr Doug Durrant in accordance with para 4.4(a) of the Officer Report subject to:

- (i) the conditions that are consistent with the operating schedule accompanying the application, as amended and shown at Appendix 5 of the Report, and
- (ii) any mandatory conditions that must be included in the licence.

REASON: In reaching this decision, Members of the Sub-Committee took into account that no representations had been received from ‘other persons’ defined by the Act, and they agreed that the agreement reached between all parties provided greater protection than the original application provided, and did not widen the scope of the original application submitted.

They also agreed that the amendment would have no adverse effect on the general public or any responsible authority as a result of those amendments being agreed.

Members also noted that an Event Management Plan had been approved on the 6th December 2023 by the three responsible authorities who had provided representations on the application, namely Cambridgeshire Constabulary and both Domestic and Commercial Environmental Health.

The Sub-Committee also considered that whilst the notice periods for the 2023 “event period” did not apply, they would apply for any subsequent events, and these notice periods would need to be complied with. Members also noted that it would have been beneficial for the applicant to seek pre-application advice as appropriate.

RIGHTS OF APPEAL

The Applicant or any persons who made a relevant objection have a right of appeal against this decision. Notice must be given to the Clerk to the Cambridge Magistrates' Court, The Court House, Bridge Street, Peterborough PE1 1ED within 21 days of notification of the Licensing Sub-Committee's decision. Email: cb-enquiries@hmcts.gsi.gov.uk

Chairman.....

Date.....



East Cambridgeshire District Council

Minutes of a Meeting of the Licensing (Statutory) Sub Committee

Held at The Grange, Nutholt Lane, Ely, CB7 4EE at 11:00am
on Wednesday 13 December 2023

Present:

Cllr Keith Horgan (Chairman)
Cllr Julia Huffer (substitute for Cllr Lavinia Edwards)
Cllr Gareth Wilson (substitute for Cllr Charlotte Cane)

Officers:

Stewart Broome – Senior Licensing Officer
Maggie Camp – Director (Legal Services)
Angela Tyrrell – Senior Legal Assistant
Hannah Walker – Trainee Democratic Services Officer

In attendance:

Robert Botkai – Solicitor representing The Lounges
Stewart Hakewill-Watson – Operations Chef for The Lounges region
Lorraine Hodgkinson – Objector
Robert Starling – Objector

Karen Wright – ICT Manager

1. Apologies and substitutions

The Trainee Democratic Services Officer informed Members that the Liberal Democrat Group appointed Cllr Gareth Wilson as a substitute member on the Licensing Statutory Sub Committee.

Apologies for absence were received from Cllr Cane, and Cllr Edwards.

Cllr Huffer and Cllr Wilson were attending as a substitute.

2. Declarations of interest

No declarations of interest were made.

**3. Application for the review of a premises – Licensing Act 2003
Premises: Piccolo Lounge, 11 Market Place, Ely, CB7 4NP**

The Sub-Committee considered a report, Y110 previously circulated, to determine an application for the review of a new premises licence in respect of Piccolo Lounge, 11 Market Place, Ely, CB7 4NP. The Senior Licensing Officer stated that the application did not require a change of use permission, but he was aware that the signage application was pending with colleagues in the Planning Team.

Lounges UK Limited applied for a Premises Licence under Section 17 of the Licensing Act 2003 for 11 Market Place, Ely CB7 4NP trading as Piccolo Lounge as a food led café bar on 16 October 2023. Members were informed of the licensable activities and the proposed hours which were included in the permission for the premises licence, the premises could remain open for the sale of alcohol and the provision of late-night refreshment from the terminal hour for those activities on New Years Eve through to the commencement time for those activities on New Years Day, the Senior Licensing Officer clarified that most premises have New Years Eve late night refreshment on their licence.

The Senior Licensing Officer explained that the applicant had offered steps to promote the licences objectives. Two representations were received from responsible authorities: Cambridge Constabulary and Environmental Health. A total of three valid representations from other persons were permitted by the Licensing Act 2003, whereby two were present at the meeting. The concerns raised by the representations were the possibility increased noise and associated crime and disorder from the premises.

Members were notified that the period between the Officer writing the report and the agenda being published, the applicant had agreed to amend their operating schedule to include a list of additional conditions to be added to the licence, which was agreed with Environmental Health and the Police at Appendix 6 to the Officer's report, both representations had no further objections and the issues had been resolved.

Members were reminded that the application should be determined in accordance with promoting the four Licensing Objectives: The Prevention of Crime and Disorder; the Prevention of Public Nuisance; Public Safety; and the Protection of Children from Harm. Members were required to have regard to the Council's Statement of Licensing Policy and the Statutory Guidance issued under Section 182 of the Licensing Act 2003 when making their decision.

Members were provided with the Officer's recommendations to determine the premises licence and were asked to note that they may not modify or impose new conditions, or reject the whole or part of the application, merely because they felt desirable to do so, it must be appropriate to do so in order to promote the licensing objectives. Regulation 19(a) required authorities to disregard any information given by a party or person that is "not relevant" to the application or representations and licensing objectives.

Members were asked to ensure that they provided reasons for their decisions and considered their responsibilities under the Human Rights Act 1998 to balance the rights of the applicant and the rights of those who may be affected.

The Sub-Committee were informed that in determining the application, the decision must be appropriate and proportionate to the objective being pursued, Members must consider:

- Article 6 – the right to a fair hearing
- Article 8 – respect for private and family life
- Article 1, First protocol peaceful enjoyment of possessions
- Article 14 – the right to freedom from discrimination

The Senior Licensing Officer ended his report by stating that the cost of the Licensing Hearing was covered by the statutory licence fees that had been paid and any party aggrieved could appeal the Sub-Committee's decision to the Magistrate's Court within 21 days from the date of notification of the decision and there would be costs associated with the process.

The Sub-Committee had no questions to the Senior Licensing Officer.

The Chairman invited the Applicants, Robert Botkai and Stewart Hakewill-Watson to present their case.

Robert Botkai introduced himself as the Solicitor representing The Lounges, and Stewart Hakewill-Watson was the Operations Chef for The Lounges in the region. Mr Botkai hoped that Members had seen the brochure provided from The Lounges to support their application. Mr Botkai explained that The Lounges had more than 200 lounge diners around the country, each lounge diner had a local name, the applicant described the different types of premises they had such as cosy clubs for late night drinking and lounges for family dining with an emphasis on brunch, lunch and afternoon trade. The Lounges provided a range of vegetarian, vegan and gluten free menus with food freshly cooked on the premises.

The premises licence proposed hours included 10am until midnight for the sale by retail of alcohol for consumption on and off the premises and opening until midnight was described as umbrella hours. Mr Botkai explained that the premises would be open until 11pm and potentially midnight on Fridays and Saturdays. Mr Botkai recognised the concerns from residents; however, the premises encourages daytime activity. The applicant had engaged with Officers, Environmental Health, and the Police to agree to the operating schedule and conditions, he hoped that the operating conditions would not be contributing to any late night anti-social behaviour.

Mr Botkai explained that customers could order food and drink to their table using an app and confirmed that the premises would not have a standing drinking environment. In addition, there would be a limited seating area outside of the premises to include 3 tables of 4 chairs, and no parking at the premises.

Both Mr Botkai and Mr Hakewill-Watson were happy to answer any questions that Members had.

The Chairman invited questions to be asked to the Applicants, Mr Botkai and Mr Hakewill-Watson.

Cllr Huffer queried whether rent would be paid for the Mothball area at the back of the premises or whether they would expand into it, as indicated in Appendix 2 of the Officer's report. Mr Botkai confirmed that there were no plans for expansion and the Mothball area would not be used.

Cllr Wilson asked what the percentage of food to alcohol was at The Lounges. Mr Hakewill-Watson confirmed it was 70% food and 30% drinking.

In response to a question from the Senior Licensing Officer, Mr Botkai confirmed that the applicant would apply for a pavement licence to enable their plans for outdoor seating at the front façade of the property.

Cllr Wilson asked the applicant to confirm whether the premises had single glazed windows at the front, or if there was a plan to install double glazing windows to reduce the noise, and whether there would be live or background music. Mr Botkai could not confirm what the glazing was for the premises, and confirmed the premises would only be playing background music, with no live entertainment.

The Chairman invited the Objectors to ask questions to the Applicant.

Ms Hodgkinson asked why the applicant had applied for a premises licence with proposed hours up until midnight. Mr Botkai explained that the licence would be from 10am until midnight, opening hours would be from 8am serving breakfast, and opening until midnight acted as an umbrella, he would expect the premises to be open until 11pm during the week and possibly midnight on Fridays and Saturdays, very few Lounges were open late, but they also wanted to have the option to include New Years Eve late night provision.

The Chairman invited the Objectors to present their case.

Mr Starling emphasised that his comments were included in the Officer's report and had nothing more to add. Ms Hodgkinson came to represent herself, husband, and son. She had concerns with the amount of drinking on the premises and would not know until Piccolo Lounge was open what the nuisance would look like on Brays Lane, Ely. She also stated that her concerns were included in her statement in the Officer's report for Members' attention.

The Chairman invited the Applicant to respond to the Objectors.

Mr Botkai explained that other Lounge venues had similar concerns from residents regarding noise and he would be happy to provide the representations with a contact number to enable open communication. He confirmed that none

of the premise's licences held by The Lounges had been called in for review by residents.

Mr Botkai responded to a question from Ms Hodgkinson and confirmed if the premises licence was granted, they expected to open on 7 March 2024.

The Chairman was happy to hear that the applicant was prepared to share contact details with the representations.

The Chairman checked that all parties felt they had had a fair chance to state their opinions, and he reiterated that up to 5 days were allowed for the communication of the Sub-Committee's decision. He then closed the public session of the meeting at 11:38am for the Sub-Committee Members (together with their Director Legal and Senior Legal Assistant) to retire to a closed session to consider the evidence and reach a decision.

Chairman.....

Date.....

EAST CAMBRIDGESHIRE DISTRICT COUNCIL

LICENSING ACT 2003

NOTICE OF DETERMINATION OF LICENSING SUB-COMMITTEE HEARING

DECISION NOTICE

Date of Hearing:	Wednesday 13th December 2023
Sub-Committee Members:	Councillor Keith Horgan (Chairman) Councillor Julia Huffer Councillor Gareth Wilson
Officers	Hannah Walker – Trainee Democratic Services Officer Stewart Broome – Senior Licensing Officer Maggie Camp – Director (Legal Services) Angela Tyrrell – Senior Legal Assistant
Applicant:	Loungers UK Limited
Responsible Authorities:	None
Other Persons:	Mr Robert Botkai – Solicitor for the applicant Mr Stewart Hakewill-Watson – Chef for applicant Mr Robert Starling – Objector Mrs Lorraine Hodgkinson - Objector
Application by:	WS Law on behalf of Loungers UK Limited
Premises Address:	11 Market Place, Ely, Cambs, CB7 4NP
Date of Application:	Monday 16th October 2023
Details of Application:	Application for a new Premises Licence under Section 17 of the Licensing Act 2003.

ORAL AND WRITTEN EVIDENCE PRESENTED TO THE HEARING

Written Evidence

The Sub-Committee members have read the material presented to them and listed below:

The Licensing Officer's Report - this included:

1. A copy of the Applicant's application form and their supporting documentation;
2. A copy of the representations submitted by the responsible authorities;
3. A copy of the representations submitted by other persons;
3. A location plan of the premises;
4. A copy of the amended conditions agreed with the Police
5. Section 182 Statutory Guidance extracts;
6. Local Statement of Licensing Policy extracts.

Oral Evidence

The Sub-Committee members heard the following oral evidence:

The Licensing Officer

The Licensing Officer presented the report, advised all parties that the applicant and Environmental Health had also now agreed conditions, presented all parties with a copy of the new agreed schedule of conditions, and then answered Member questions.

The Applicant

The applicant gave a summary of their application, and answered questions from Members and the objectors via the Chair of the Committee.

The responsible authorities

Not present

Other Persons

Mr Starling and Mrs Hodgkinson emphasised that their concerns were contained in the report, and they had nothing further to add.

The following Guidance was considered:

East Cambridgeshire District Council Statement of Licensing Policy – 7th January 2021

Revised Guidance issued under section 182 of the Licensing Act 2003 – August 2023

DECISION: Members of the Licensing Sub-Committee (in exercise of the powers delegated by East Cambridgeshire District Council as Licensing Authority) decided to:

GRANT the Premises Licence to Loungers UK Limited in accordance with para 4.4(a) of the Officer Report subject to:

- (i) the conditions that are consistent with the handout of agreed conditions provided by the officer at the committee, and
- (ii) any mandatory conditions that must be included in the licence.

REASON: In reaching this decision, Members of the Sub-Committee took into account that the responsible authorities had agreed to additional conditions that satisfied them that the licensing objectives would not be undermined. They agreed that the agreement reached between the applicant and the responsible authorities provided greater protection than the original application provided, and did not widen the scope of the original application submitted.

They also agreed that the amendment would have no adverse effect on the general public or any responsible authority as a result of those amendments being agreed.

Members noted the concerns of the residents, but felt that the amended application including the additional conditions provided a balance between the rights of them as residents and the rights of the applicant as a business, and that there were suitable safeguards in place as a result of the amended operating schedule agreed with the responsible authorities.

Members also noted the applicants undertaking to provide their contact details to those objecting, and welcomed this.

RIGHTS OF APPEAL

The Applicant or any persons who made a relevant objection have a right of appeal against this decision. Notice must be given to the Clerk to the Cambridge Magistrates' Court, The Court House, Bridge Street, Peterborough PE1 1ED within 21 days of notification of the Licensing Sub-Committee's decision. Email: cb-enquiries@hmcts.gsi.gov.uk