



To be submitted to the Council at its meeting on 28th September 2023

LICENSING SUB-COMMITTEE

31st July 2023 at 5.30pm

Present:

Councillors Hasthorpe, Beasant and Smith

Officers in attendance:

- Iain Peck (Senior Licensing Enforcement Officer)
- Linda Milner (Licensing Enforcement Officer)
- Sophie Pickerden (Committee Support Officer)
- Gemma Broderick (Solicitor)

Others in attendance:

- Andrew McCluskey (Applicant)
- Carol Farrant (Representative)
- Neil Robinson (Representative)

There was one member of public and no members of the press in attendance.

LSC.1 APPOINTMENT OF CHAIR

RESOLVED – That Councillor Hasthorpe be appointed as Chair for this meeting.

COUNCILLOR HASTHORPE IN THE CHAIR

LSC.2 DECLARATIONS OF INTEREST

There were no declarations of interest received in respect of any item on the agenda for this meeting.

LSC.3

APPLICATION FOR A VARIATION OF THE PREMISES LICENCE AT – KINGSWAY KIOSK, KINGSWAY, CLEETHORPES

The Chair introduced himself, the other members of the sub-committee, and the officers present.

The sub-committee considered an application for a variation to the premises licence for the Kingsway Kiosk, Cleethorpes.

Ms Broderick outlined the preliminary legal issues in relation to the bundle of papers, additional evidence served and the process to follow for the hearing.

Mr Peck summarised the application. He said that the application was for a variation to the existing premises licence. Mr Peck stated that the applicant was asking for an extension of one hour to be applied for the licensable activities of selling alcohol and playing live and recorded music. Mr Peck said that no representations had been received by responsible authorities but that a representation had been received from a member of the public. He informed the sub-committee members that the applicant had agreed with the council's environmental protection officer that live music would be stopped at 11.00pm and that all doors and windows would be closed during the hours of 9.00pm – 11.30pm. Mr Peck said that recorded music was considered de-regulated and that therefore the applicant was essentially asking for an extra half an hour to be able to play recorded music until 11.30pm.

The Chair invited Mr McCluskey and Mrs Farrant to address the sub-committee.

Mr McCluskey said that he had bought the Kingsway Kiosk in 2007. He said that the facility was made up of two wooden kiosks and that when he had bought them, one had been vacant and in a bad state. Mr McCluskey commented that at the time he bought the kiosks, the area in front was unkept and had not been landscaped. Mr McCluskey stated that in 2008 he worked in collaboration with North East Lincolnshire Council in an effort to make the kiosks better. He said that he invested his own money and had put on free entertainment at the venue which helped tourism in the area. Mr McCluskey said that he was able to facilitate the free entertainment through permission established by Temporary Events Notices. Mr McCluskey said that he had found the notice process to be unwieldy and had decided to apply for a licence. Mr McCluskey commented that the Kingsway Kiosk had put on large events in the area over the years. He said that the Kingsway Kiosk held regular events during the summer and had raised lots of money for different charities. Mr McCluskey said that the Kingsway Kiosk tried to appeal to as large an audience as possible and had received recognition as a venue. He said that everything had been going

well and then he had been informed about the development at the Winter Gardens. Mr McCluskey stated that he had been happy to support the development as long as the development would not impact the events he held at the Kingsway Kiosk. He said that he had been given assurance from council officers that the development would not infringe on his business operations. However, Mr McCluskey said that noise complaints did follow but they were at times that cars and people passing by was louder than any music being played at the events. Mr McCluskey said that despite the assurances he had been given, he was later told that he could only have up to six events a year. He commented that in 2020, improvement work had been completed at the Kingsway Kiosk which included installing insulation. Mr McCluskey explained that following the installation, an audio test was undertaken where music was played at ninety decibels and no music could be heard outside the kiosk. Mr McCluskey said that 90 decibels was louder than what would be played at the Kingsway Kiosk. Mr McCluskey stated that he allowed up to 50 people internally for events even though the Kingsway Kiosk could have up to 80. He said that the demographic which the Kingsway Kiosk appealed to tended to be those who had retired, and he said that the location of the kiosk was perfect as retirement properties were nearby. Mr McCluskey commented that the biggest disappointment the customers had was that the kiosk closes too early. He said that when he first had applied for a licence, he had not planned to have indoor entertainment, but the business had changed over time. Mr McCluskey said that an 11.30pm closing time was the best way forward. Mr McCluskey stated that the complainant did not live at the Winter Gardens Close and had therefore not experienced living close to the kiosk. He said that the complainant's concern about the impact on vandalism the extra hour of drinking would have was absurd as the vandalism in the area had been occurring early in the evening and had been done by a gang of youths. Mr McCluskey said that the complainant had made reference to his retirement, but he said that he had employed three managers who had extensive experience in the hospitality industry. Mr McCluskey said that the complainant had also cited potential public nuisance. Mr McCluskey said that there was not evidence to support the claim and that since 2010 he had not had a single complaint.

Mrs Farrant spoke in support of the variation application being approved. She said that she had lived in Winter Gardens Close since 2017. Mrs Farrant said that she initially lived right opposite the Kingsway Kiosk and was concerned about potential noise. Mrs Farrant said that she then later moved into her husband's apartment, and it made her realise how poor the insulation had been at the previous flat. Mrs Farrant commented that she did go to the Kingsway Kiosk quite a lot and enjoyed the entertainment offered. She said that she particularly loved that the Kingsway Kiosk put on events to support different charities. Mrs Farrant said that she was initially concerned about the idea of music being

played in the evening, but she said that whilst you can hear the music, it was background music and after 9.00pm, when the doors and windows were closed, and you could not hear the music from her apartment. She said that she was not able to even hear the music from her balcony. Mrs Farrant said that those that went to the events at the Kingsway Kiosk and enjoyed the evening entertainment were well behaved and were of an older demographic. She stated that she had never seen any anti-social behaviour. Mrs Farrant said that lots of people that went to the Kingsway Kiosk then went to the Navy Club and she said that it was noticeable that you must travel further up the resort for later entertainment, and this could be a disappointment. Mrs Farrant commented that whilst Mr McCluskey might not manage the day-to-day operations of the Kingsway Kiosk, he was still present even if he was not there all day. Mrs Farrant said that she initially did not like the idea of music being played so close to where she lived, but she said that she does enjoy having the kiosk close by. She said that it brought people in and gave them a sense of being part of a community.

The Chair asked the sub-committee members if they had any questions for Mr McCluskey or Mrs Farrant.

Councillor Beasant queried what music was played at the Kingsway Kiosk.

Mr McCluskey said that various music was played at the Kingsway Kiosk from blues to jazz music. He said that he tried to offer a variety. Mr McCluskey said that word about the kiosk had spread as there weren't many venues in the area that offered similar facilities. He said that if you attend, you were given a seat at a table and were not squished in.

Councillor Beasant said that blues bands would be louder than other bands.

Mr McCluskey said that the indoor events were from September onwards and did not take place during the summer season. He said that the Kingsway Kiosk could be booked for private parties. Mr McCluskey said that there weren't always venues in the area for private parties. Mr McCluskey commented that 50s and 60s music was what the Kingsway Kiosk clientele liked.

The Chair invited Mr Robinson to address the sub-committee.

Mr Robinson said that he had concerns about the Kingsway Kiosk closing at 11.00pm, but he said that if the extension was agreed it could be a potential statutory noise nuisance. Mr Robinson stated that some of the bands who played at the kiosk were loud. He referenced the Environmental Protection Act 1990. Mr Robinson said that North East Lincolnshire Council owned the land and could therefore not put a

statutory nuisance on the land. He said that that was the regulation set by central government.

The Chair asked the sub-committee members if they had any questions for Mr Robinson.

Councillor Smith said that with the mitigation in place, it would be up to the licensing department to monitor. He queried how the venue affected Mr Robinson.

Mr Robinson stated that his parents lived close by.

Councillor Smith said that potentially some of the noise was coming from people passing by and not necessarily those at the Kingsway Kiosk.

Mr Robinson stated that he was at the meeting to discuss the Kingsway Kiosk.

Councillor Beasant asked Mr Robinson if he had submitted noise complaints and if so at what time.

Mr Robinson said that he had submitted noise complaints during the daytime. He said that the bands playing were well attended events and therefore were quite noisy.

The Chair invited all parties to make their closing statements.

Mr McCluskey said that the previous complaints were submitted because the people that bought the flats had done so without knowledge about the entertainment that took place at the Kingsway Kiosk. He reiterated that he had worked with North East Lincolnshire Council and had invested in the business. Mr McCluskey stated that the Kingsway Kiosk had demonstrated a commitment to the community.

Mr Robinson said that he had concerns and his parents were concerned about the late hours.

The sub-committee withdrew to deliberate. After an interval, the sub-committee returned to the meeting.

The Chair thanked everyone for their attendance. He said that the sub-committee had taken into account all representations made both in writing and orally. The Chair said that the sub-committee had heard from the applicant, Mr McCluskey and had also heard from Mrs Farrant in support of Mr McCluskey's application. The Chair said that Mr McCluskey had explained the background to the Kingsway Kiosk. The Chair said that the sub-committee then heard from the interested party, Mr Robinson who had concerns relating to public nuisance. The Chair stated that Mr Robinson was also concerned that a future statutory

nuisance may arise if the application was granted. The Chair stated that as a sub-committee, they had to take into account all of the information before them and were only able to make a decision based on the evidence and information that they currently had. The Chair said that after having taken all of the information into account, the sub-committee was happy to grant the extension to the licence as requested, but with the addition of certain conditions. The Chair said that the sub-committee wanted to make it clear that the power of review existed and that any breaches would be taken seriously.

RESOLVED – That the application for a variation to the existing premises licence be granted with the following conditions:

1. Live music will cease at 23:00 hours.
2. Amplified entertainment will cease at 23:30 hours.
3. All doors and windows will be kept closed between the hours of 21:00 hours to 23:30 hours.
4. Signs are to be displayed requesting customers to leave the premises in an orderly fashion and reminding them of the presence of residential properties nearby.

There being no other business, the Chair thanked those in attendance for their contributions and concluded the meeting at 6.35pm.