



NORWICH
City Council

NORWICH CITY COUNCIL
NOTICE OF DETERMINATION

Notice of determination of the Licensing Sub-committee meeting on 10th January 2024.

Application for the grant of a premises licence for Last Pub Standing, 27-29 King Street, Norwich NR1 1PD

Applicant – Last Pub Standing Limited, company number 14337909

Members of committee:

Councillor Jacob Huntley (Chair)

Councillor Caroline Ackroyd

Councillor Claire Kidman

Other persons present:

Niall McCann, solicitor, advocate for the applicant

Hugo Burnard, audio engineer, for the applicant

Simon Peters, for the applicant

Tom Dawson, Environmental Protection

George Thompson, Press (EDP)

Leonie Burwitz, committee officer

Maxine Fuller, Licensing Advisor

David Lowens, solicitor, legal advisor to committee

Bronwyn Sellick, trainee solicitor, Norfolk County Council (nplaw)

Summary notes of hearing

It was checked and confirmed that all persons present had received all the papers to be considered at this committee.

Ms Fuller presented the report.

Mr McCann addressed committee on behalf of the applicant company. He introduced the persons present for the company. The application arose as in November 2023 the previous premises licence had lapsed. Mr McCann stressed that this was not a review application. Works had been undertaken to refurbish the premises following a flood. Noise readings provided by Mr Burnard were of the old sound system, not the one that will be in operation.

Mr Burnard described the basis of the intended system with a processor to allow attenuation separately to any limiter on the loudspeakers.

Mr McCann noted the allegations in respect of the manager Mr Jones contained in the written submissions. Mr Jones did not accept the details regarding the 25th August 2023 and in respect of the October incident the applicant believes the music stopped a couple of minutes after the visits. All post is sent to the accountant.

Mr McCann noted that the letters addressed to "The Occupier, Last Pub Standing" contained in the written submissions appeared to be standard letters and that it does not appear that any complaints were witnessed by an environmental health officer. There appears to be seven complaints in total, which is suggested as not exceptional in a period of four or five years.

It was suggested by the applicant that noise levels in nearby streets are often high, it was noted that on one complaint date of 11 November the premises were shut, and that whilst Parmentergate is not too far to be personally affected (by noise from the premises) it cannot be said for certain that other complaints are due to these premises. The applicant had a concern that not all complaints arose due to the premises.

Mr Burnard noted that he was looking at noise breakout and that the premises were happy to work with the Environmental Protection team. The premises were now aware of some noise issues that had not previously been known. To have no music in the garden would have a devastating effect upon the business.

In response to a question from Cllr Ackroyd regarding the allegation the DJ had not turned down the music when requested to do so and wondering about the manager's understood responsibilities, Mr Simon Peters responded that the premises were a grassroots music venue hosting a number of music and food events and it took its responsibilities seriously. Previous conversations had taken place with the Env Protection team in 2021 and the premises was aware of issues with noise. The management partner at the time was a little wayward, and a new management team was being trained. If music was of sufficient volume to cause nuisance to residents in their homes this would be a problem and he would expect the music to be turned down. He was concerned about the allegation that this had not happened, with the DJ refusing to do so. Mr Peters agreed the premises were close to residential accommodation.

Mr Peters mentioned that internal policies and procedures had been reviewed and he wished to be notified immediately of any noise concerns. He confirmed that measures had been taken to ensure the problem will not reoccur, and noted regarding the noise limiter condition that the volume could be turned down but not turned up.

Mr Peters confirmed in response to a question from Cllr Huntley any post received whilst he was on the premises is opened, but post otherwise received is set aside to be opened by the accountant.

Mr McCann said the business had received some but not all the post sent and suggested that it would be better to rely upon emails and telephone calls, not post.

In response to a request from Cllr Kidman Mr Burnard described the meaning of “pink noise” found in the report as meaning a test one, covering human ear reception. Mr Burnard gave details of his experience and qualifications. The report had been commissioned by the business after a request from the Env Protection team.

Mr Burnard said he’d taken many acoustic measurements, a little hamstrung as being unaware of where complaints were coming from. His measurements were to establish which frequencies were escaping more than others. The noise survey was carried out on the 28 and 29 November 2023 between midday and 1pm.

Regarding the noise limiter, Mr McCann explained the intention would be to carry out a noise test after the equipment was installed, the limiter level would be agreed, and the unit sealed. Further noise attenuation, if needed, could follow.

Mr Tom Dawson addressed committee regarding noise assessment methods, noting BS1412 and expected noise levels at night. He suggested local residential properties were clearly visible from the premises location. Letters sent out were in an automated format, he would be happy to investigate sending concerns by email. Regarding suggested conditions, he noted that unfortunately complaints had been received regarding the 29 December temporary event. He asked that outside events stopped at 23:00. The TEN had conditions but complaints were still received.

Committee paused for a short time.

On restarting, the Chair enquired regarding music in the garden and Mr McCann noted that this was essential to the business. The premises was not on Prince of Wales Road, had little passing trade and would not survive without music.

Cllr Kidman asked for more details of the noise issue in 2021. Mr Peters responded, noting that discussions were held with Env Protection officers and with the police licensing team (Michelle Bartram). Speaker location and facing were discussed, and some generic noise traps were erected on the back fence hidden with bamboo. This appeared to be successful, in that the lack of complaints had led Mr Peters to think the noise problem had been solved.

Mr McCann noted regarding the final complaint on the TEN event (29 November) was when music was just played inside the premises, not outside, and so far as the

applicant was aware no officer had seen a statutory nuisance on that night. He noted that witnesses would be helpful regarding these noise complaints, that the iPhone was designed to increase noise and suggested that limited weight should be given to complaints about the 29 Nov.

The Chair asked about the bass noise trap, this was unfortunately flood damaged and had been removed. The garden was now bare.

Mr McCann noted that it was in the applicant's interest to have as much soundproofing as possible, as this allowed an increased volume at which music could be played.

Mr Dawson mentioned that three videos had been received, video on a mobile phone was not good as a basis for enforcement action. However, the calibrated sound equipment mentioned in written submissions was relied upon and the measurements of noise coming from the premises and measured within a complainant's property, as set out in the written submissions, were such that the council had served notices under the Environmental Protection Act 1990 to seek to control the noise.

Mr Dawson repeated his concerns set out in the written submissions regarding meeting the manager and his refusal to turn down the level of music.

Mr McCann noted that there was a dispute regarding the words alleged to be said by Mr Jones the manager, who was a premises manager undergoing an apprenticeship.

Mr McCann noted that there was no evidence of crime and disorder concerns and no evidence of police concerns.

There was a question regarding proposed condition 11 (page 27 of the agenda) dealing with children, Mr McCann noted that the application had been made in the same format as the previous licence to seek to reduce the concerns of residents. The applicant was happy for this proposed condition to be removed.

The wording of proposed condition 7, that live music will end at 00:30, was noted. The application was amended by the applicant to reduce the live music hours sought to 00:30 instead of 01:00 on all days.

The applicant confirmed that the three conditions proposed by the Norfolk Constabulary set out on page 36 of the agenda were agreed by them and proposed as part of any operating schedule.

The applicant confirmed that the six bullet point conditions set out in the email of Jan 4th 2024 from Keystone Law to Mr Dawson were offered as prospective conditions, to be engaged once the noise limiter works were in place but with a further offered condition that until this point there would be no music in the garden. Discussion took place regarding the consumption of alcohol at an outside area.

Mr McCann addressed committee in closing, noting that complaints were scant and the complaints made so far were not suitable for a review, that save for the payment missed and a transfer lodged the application would not have been necessary.

Committee considered the application in private meeting.

Decision of committee

The application as amended was granted, save for the following:

1. The police conditions were noted as agreed, which is appreciated, but bullet point 3 is amended to “Patrons will be discouraged from taking open vessels of alcohol off the premises, save for consumption at an area authorised by a table and chairs licence or a pavement licence”.
2. There is no licence granted covering any part of the public highway.
3. The proposed conditions set out in the email of January 4th are introduced but with the following amendments:
 - 1. No change
 - 2. No change
 - 3. Noise generated by amplified music must be controlled by a noise limiting device which is tamper proof by unauthorised individuals and which is set at a level determined by the local authority environmental health officer, such level being confirmed in writing to the licensee.
 - 4. Except in instances of technical failure (which will be reported immediately to Environmental Protection) noise limiting devices, once set, cannot be reset or adjusted without the approval of the local authority environmental health officer and to a level determined by the local authority environmental health officer.
 - 5. The premises licence holder shall ensure that no noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
 - 6. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
4. The conditions set out in 3 above are in effect once the noise equipment is installed and the level set, but until then there shall be no outside regulated entertainment.
5. Proposed condition 11 regarding children shall not be introduced as a condition in the operating schedule.
6. Proposed condition 5 dealing with attendance at Norwich Pubwatch and Norwich Licensing Forum shall apply with the understanding that the condition applies also to any replacement body.

Reasons for the committee’s decision

Committee took account of the previous history and representations made by local residents together with the views heard at committee and the papers presented. There had been issues sufficient to cause notices to be served under the Environmental Protection Act 1990, which was a concern, but committee noted that this was done in advance of the currently proposed noise controls.

It was felt that the conditions as proposed and as amended should be sufficient to prevent noise nuisance arising from regulated entertainment inside and outside the premises.

Committee notes and gives weight to the lack of current concerns from the Norfolk Constabulary regarding crime and disorder or any other licensing objective. There are no outstanding objections from the police.

The committee has taken account of the evidence from the Env Protection team, but on balance is of the view that current management behaviour and the proposed controls are acceptable and sufficient to deal with the promotion of the licensing objectives.

Rights of appeal

Rights of appeal are set out in Schedule 5 of the Licensing Act 2003.

The holder of the licence may appeal against any decision—

- (a) to impose conditions on the licence under [subsection \(2\)\(a\)](#) or [\(3\)\(b\)](#) of section 18, or
- (b) to take any step mentioned in [subsection \(4\)\(b\) or \(c\)](#) of section 18 (exclusion of licensable activity or refusal to specify person as premises supervisor).

Where a person who made relevant representations in relation to the application desires to contend—

- (a) that the licence ought not to have been granted, or
 - (b) that, on granting the licence, the licensing authority ought to have imposed different or additional conditions, or to have taken a step mentioned in [subsection \(4\)\(b\) or \(c\)](#) of section 18,
- they may appeal against the decision.

“relevant representations” has the meaning given in [section 18\(6\)](#).

Any appeal should be notified in writing to a magistrates’ court within 21 days of receipt of notification of the decision appealed against.

J. Huntley - Chair.

Dated: 18 April 2024