



NORWICH
City Council

Notice of Determination

Date of Hearing: Wednesday 28 September 2011
Licence Type: Application to vary a Premises Licence
Name of Applicant: Simon Turner

Postal Address of Premises (or description of premises):

Café Du Commerce, 42 King Street, Norwich NR1 1PD

Licensing Sub-Committee:

Councillors Kendrick (Chair), Haynes and Wright

List of Public Attending Committee

Mr and Mrs Conway

Mr and Mrs J. S. Utton

Determination –

The Committee heard the application for variation of a premises licence in respect of the Café Du Commerce, 42 King Street, Norwich NR1 1PD. The application seeks to remove condition 9 of Annex 1 to the licence which reads:

Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking meals there, and for consumption by such a person as an ancillary to a meal.

Ian Streeter, Licensing Manager, presented the report to the Committee.

The applicant then presented his application. He said that the premises had been used as a restaurant for a long time without complaint however the business was no longer sustainable financially without the benefit of the variation sought. If the application was granted the premises would still operate as a café offering food at all times including tapas and any music played would be of a background level only. The premises attract a mature clientele who want light food and a glass of wine. The variation if granted will not turn the premises into a noisy bar.

Questions were put to the applicant regarding the admittance of children, if any complaints had been received, whether the applicant envisaged the market changing and the envisaged spilt between sales of food and drink.

The applicant then agreed with the Licensing Officer to amend the operating schedule by agreeing not to sell draught beer at the premises and that patrons consuming alcohol at the premises will be seated.

The Committee then heard from the Interested Parties.

Mr and Mrs Utton said the premises had been a restaurant for 25 years and they did not want it converted into a bar and were concerned that the proximity of a kebab shop and a taxi rank would turn the premises into a drinking den. Further they said that they did not have a problem with the applicant's management of the premises but were concerned that the premises may come under new management who may not be as responsible. The Licensing Officer advised the Uttons that the Police and other authorities are there to protect their enjoyment and the safety of their property and in addition if problems do arise in future with the premises then the licence can be reviewed and ultimately revoked if the conditions of the licence are not adhered to.

Mr and Mrs Conway acknowledged that the licence could be reviewed in future however they expressed concern that the review process takes more than a couple of weeks and during that time the residents have to endure problems at the premises. The Licensing Officer advised that the premises licence can be called in for review by the Responsible Authorities and or the Interested Parties but accepted that the process would take a minimum of 6 weeks. In response to concerns over possible future variations of the licence the Licensing Officer reminded the Interested Parties that they would have the opportunity to make representations.

The applicant was asked by the Committee about the seating capacity and he advised that the capacity would be between 30 to 40 persons and that there would be 8 "comfortable seats" and the remainder would be table seating.

Mrs Conway said there had been issues with customers and staff at the premises using the courtyard the majority of which they own but which the premises and other properties enjoy rights to pass and repass. Mrs Conway said she had encountered people smoking there and using the area as staff room as well as storing bins there the number of which had grown. In the past the drains had flooded which had attracted vermin. When the drains were cleared they were found to be clogged with cigarette butts and food waste. Although access to the courtyard is restricted by a lockable keypad the Conways expressed concern that such problems may arise in future.

In response to the representations from the Interested Parties the applicant said that a small part of the courtyard belonged to the premises and it was in this area that the bins were kept. The applicant acknowledged that some staff had used the area inappropriately but these staff were no longer employed by him. The only access directly from the premises to the courtyard is via the fire exit which although not signed patrons are told they can not use except in the case of an emergency. With regards to the blocked drains the applicant took issue with the allegations that this was due to activities at the premises as they were other premises which use the courtyard including a kebab shop.

The applicant made a closing statement that the premises would not become a noisy bar as amongst other things the applicant's insurance only covers use as a café. The applicant notes that none of the Responsible Authorities had made representations.

The Committee's decision:

The Committee granted the application as sought subject to the conditions offered by the applicant that no draught beer be offered for sale at the premises and that patrons consuming alcohol will be seated. In addition two further conditions were imposed. Firstly, that patrons are to use the rear door only in cases of emergency and that signage to this effect is to be placed on the door and staff to be instructed to ensure compliance. Secondly, business waste shall not be transferred to the external bins except between the hours of 0800 and 2200. Members took into account the views of the Responsible Authorities insofar as there were no outstanding objections to the proposal. The Committee also took into account the residential nature of this area and therefore felt it was appropriate to restrict patrons use of the courtyard and that the external bins only be used during certain hours to safeguard the amenity of local residents.

Right of a Party to appeal against the determination of the Authority

For your information, applicants and any person who has submitted a relevant representation, or submitted an objection notice, who is aggrieved by the decision, or the imposition of any term, condition or restriction, have a right of appeal to the Magistrates' Court within 21 days of the date on which they are notified of the decision.

Dated this 27th September 2011