



NORWICH City Council

NOTICE OF DETERMINATION

Date of Hearing:	29 May 2014
Licence Type:	Application for the grant of a premises licence
Name of Applicant:	Magdalena Pawelec
Name of Premises/Postal Address of Premises:	Pizza One 5 St John's Close, Norwich NR1 2AD
Licensing Sub-Committee: ("the Committee")	Councillors Gayton (Chair), Button and Gihawi
Responsible authorities:	Michelle Bartram, Norfolk Constabulary Licensing Team
Other persons present:	Magdalena Pawelec (applicant)
Also present were:	Ian Streeter (Norwich City Council Licensing Manager) and Luke Parker (Solicitor, nplaw)

DETERMINATION:

Cllr Gayton led the introductions and outlined the procedure to be followed.

Mr Parker asked the applicant if she had received a copy the Norfolk Constabulary's letter to Mr Streeter dated 27 May about the application. She confirmed that she had and that she had no objection to the letter being considered by the Committee.

Mr Streeter presented his report.

Ms Pawelec said that she had been operating the take-away for 4 years and that due to business pressures she had submitted the application for a licence to sell alcohol on and off the premises to maintain the commercial viability of the business. It was her intention to supply alcohol with food only and to only supply low percentage alcoholic drinks such as wine, beer and alcopops. On sales would be aimed at customers wanting a glass of wine with cake and off sales would be ordered via the website or by phone. Deliveries would only be made to residential addresses.

Councillors asked various questions of the applicant including the following: did the applicant intend to address the lack of seating at the premises; what, if any, checks would be made of customers' age who ordered alcohol for delivery, what, if any,

records would be kept of deliveries; and whether or not there would be a cut-off time for orders of deliveries.

Ms Pawelec said that there was no seating at present however if her application is successful then she will install 3 to 4 tables with chairs. On sales would be between 1200 to 1600 and restricted to people ordering food. She said that delivery drivers would ask for and check photographic ID of customers to ensure they were of age. If they did not have ID then no sale of alcohol would take place. When questioned by Mr Streeter, the applicant confirmed that records would be kept of all deliveries for a period of 6 months.

Mr Streeter explained to the applicant that any deliveries of hot food and hot drink taking place from 2300 required a late night refreshment licence, this was irrespective of when payment had been made. Mr Streeter noted the premises menu / delivery flyer enclosed with the Constabulary's letter of 27 May 2014 provided for deliveries up to 0000 during the weekend and yet the applicant had not applied for a late night refreshment licence. Ms Pawelec was unaware of this requirement. Mr Streeter noted that the application sought a licence to sell alcohol from 1200 to 2300 and yet the applicant was now stating that on sales would be limited to 1200 to 1600 and only to people ordering food.

Ms Bartram presented the Constabulary's case. She said that unfortunately she had not been able to discuss the application with the applicant previously as Ms Pawelec had been on holiday for the last fortnight. Ms Bartram said the Constabulary was concerned about alcohol consumption inside the premises and this could be restricted by condition but the nature of a fast food restaurant is that food is ordered, provided and consumed within a relatively short space of time. If alcohol is offered for sale also then this is likely to be consumed equally as quickly. Ms Bartram queried whether the applicant wanted to change the use of the premises from a take-away to a restaurant. Ms Pawelec replied that she did not intend to change the use of the premises. Ms Bartram said that the operating schedule was inadequate and that the Constabulary would want a number of additional conditions before their concerns would be allayed. Ms Bartram said that there were concerns over the management of the premises as a person linked with the premises had been found to be unsuitable to run other premises and was currently being investigated in relation to working at Pizza One and the unlicensed provision of late night refreshment. Ms Bartram said the management had demonstrated a lack of understanding of the Licensing Act 2003 in respect of late night refreshment alone, let alone the sale of alcohol which inherently raises additional concerns.

DECISION OF THE LICENSING SUB-COMMITTEE

The application was refused.

REASONS FOR THE COUNCILLORS' DECISION

The Committee determined the application having due regard to the Licensing Act 2003, the section 182 Guidance, the Council's Licensing Policy and all the evidence both written and oral, whilst attaching the appropriate weight to each.

The Committee placed great weight to the Constabulary's concerns that the licencing objectives of the prevention of crime and disorder and the prevention of public nuisance would be undermined if the application was granted.

The Committee noted the significant disparity between the written application before them and the oral representations made by the applicant at the hearing.

The Chair encouraged the applicant to take legal advice, speak to the Licensing Teams at the Council and the Constabulary and consider making a fresh application in the future.

RIGHT OF THE PARTY TO APPEAL AGAINST THE DECISION OF THE LICENSING SUB-COMMITTEE

For your information, applicants and any persons who have made relevant representations who are aggrieved by the decision or the imposition of any condition, term or restriction, may within 21 days of the date on which they receive notification of the decision, appeal to the magistrates court.

Dated this 5 June 2014