

Report to	Licensing sub committee 21 April 2015	Item
Report of	Head of citywide services Licensing Act 2003:	3
Subject	Application for variation of a Premises Licence – The Georgian Townhouse 30-34 Unthank Road Norwich NR2 2RB	

Purpose

Members are asked, in accordance with the delegation of licensing functions contained in the Norwich City Council Statement of Licensing Policy (Licensing Act 2003), to consider the application for the variation of a premises licence in respect of The Georgian Townhouse 30-34 Unthank Road Norwich NR2 2RB following the receipt of relevant representations.

Recommendation

That members determine the application for the variation of a premises licence in respect of The Georgian Townhouse 30-34 Unthank Road Norwich NR2 2RB in accordance with the:

- Licensing Act 2003;
- Guidance issued under Section 182 of the Licensing Act 2003; and
- Norwich City Council Statement of Licensing Policy.

Corporate and service priorities

The report helps to meet the corporate priority of a safe and clean city and the service plan priority of protecting the interests of the public through the administration of the licensing function.

Financial implications

None.

Ward/s: All wards

Cabinet member: Councillor Harris – customer services

Contact officers

Ian Streeter, licensing manager

01603 212761

Background documents

None

Report

Variation application

1. The applicant is the City Pub Company (East) Plc 9 Phene Street London SW3 5NY.
2. The application seeks to:
 - add the licensable activities of the provision of live and recorded music in respect of the Pembroke Rooms only for pre-booked events from 11.00 to 00:00 Mondays to Sundays: and
 - add late night refreshment from 23:00 to 00:00 Mondays to Sundays.
3. The proposed standard days and hours for the additional licensable activities are:

the provision of live music (indoors, The Pembroke Rooms only for pre-booked events)

Monday	11:00 – 00:00
Tuesday	11:00 – 00:00
Wednesday	11:00 – 00:00
Thursday	11:00 – 00:00
Friday	11:00 – 00:00
Saturday	11:00 – 00:00
Sunday	11:00 – 00:00

Non-standard timings: from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

the provision of recorded music (indoors, The Pembroke Rooms only for pre-booked events)

Monday	11:00 – 00:00
Tuesday	11:00 – 00:00
Wednesday	11:00 – 00:00
Thursday	11:00 – 00:00
Friday	11:00 – 00:00
Saturday	11:00 – 00:00
Sunday	11:00 – 00:00

Non-standard timings: from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

the provision of late night refreshment (indoors only)

Monday	23:00 – 00:00
Tuesday	23:00 – 00:00
Wednesday	23:00 – 00:00
Thursday	23:00 – 00:00
Friday	23:00 – 00:00
Saturday	23:00 – 00:00
Sunday	23:00 – 00:00

Non-standard timings: from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Current premises licence

4. A copy of the existing premises licence in respect of The Georgian Townhouse 30-34 Unthank Road Norwich NR2 2RB is attached as appendix A to the report. The Pembroke Rooms, to which the proposed additional licensable activities of live and recorded music would apply, are shown as the hatched area on the plan attached as annex 4 to the existing premises licence.

Operating schedule

5. The applicant is not proposing any additional steps to promote the licensing objectives as a result of this variation application. All existing conditions and restrictions attached to the current Premises Licence will continue and apply to the proposed additional licensable activities if the variation application is approved.

Relevant representations

6. The responses from the Responsible Authorities are as follows:

Police – no relevant representations received.

Environmental Protection – no relevant representations received.

Fire Officer – no relevant representations received.

Planning Officer – no relevant representations received.

Area Child Protection Committee – no relevant representations received.

Trading Standards – no relevant representations received.

Primary Care Trust – no relevant representations received.

7. Relevant representations have been received in respect of the application with concerns which appear primarily to relate to the licensing objective of the prevention of public nuisance. Copies of the representations received are attached at appendix B to the report.
8. A site plan showing the location of the application premise and those local residents who have made representations will be available at your meeting.

Norwich City Council Statement of Licensing Policy

9. Attached at appendix C are the elements of the City Council's local Licensing Policy which are considered to have a bearing upon the application:

National Guidance (issued under section 182 of the Licensing Act 2003)

10. Attached at appendix D are the elements of the National Guidance issued by the Secretary of State that are considered to have a bearing upon the application.

Summary

11. In determining the application with a view to promoting the licensing objectives the sub-committee must give appropriate weight to:
 - the steps that are appropriate to promote the licensing objectives (i.e. the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm);
 - the representations (including supporting information) presented by all the parties;
 - the guidance issued under Section 182 of the Licensing Act 2003 (National Guidance); and
 - the council's own statement of licensing policy.
12. The sub-committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:
 - Grant the application as asked;
 - Modify the conditions of the licence by altering or omitting or adding to them;
 - Reject the whole or part of the application
13. The sub-committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.
14. The representations received appear primarily to relate to issues that fall under the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. The sub-committee is directed to paragraphs 20 and 24 of the local

licensing policy at appendix B which contain examples of factors that impact on the licensing objectives that the applicant could consider when addressing these issues. These paragraphs also contains examples of control measures that may be taken into account in operating schedules having regard to the type of premises and/or the licensable activities.

15. The sub-committee is also reminded of the contents of appendices 2, 3, 4 and 5 of the local licensing policy (not re-produced in this report) which contain pools of model conditions relating to the four licensing objectives.



NORWICH
City Council

Schedule 12

Regulation 33,34

Premises Licence

Premises Licence Number

14/00565/PREM

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

The Georgian Townhouse
32 - 34 Unthank Road
Norwich
NR2 2RB

Telephone number 01603 615655

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence.

Sale by Retail of Alcohol - Activity takes place both indoors and outdoors

The times the licence authorises the carrying out of licensable activities

Sale by Retail of Alcohol Sunday 11:00 - 22:30
Residents and their bona fide guests 24 hours a day seven days a week.

From the end of permitted hours on New Years Eve to the start of the permitted hours on the following day.

Sale by Retail of Alcohol Monday to Saturday 11:00 - 00:00
Residents and their bona fide guests 24 hours a day seven days a week.

From the end of permitted hours on New Years Eve to the start of the permitted hours on the following day.

The opening hours of the premises

Monday	08:00 - 00:00
Tuesday	08:00 - 00:00
Wednesday	08:00 - 00:00
Thursday	08:00 - 00:00
Friday	08:00 - 00:00
Saturday	08:00 - 00:00
Sunday	08:00 - 00:00

Residents and their bona fide guests 24 hours a day seven days a week.

From the end of permitted hours on New Years Eve to the start of the permitted hours on the following day

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption both on and off the Premise

State whether access to the premises by children is restricted or prohibited

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

The City Pub Company (East) Plc
9 Phené Street
London
SW3 5NY

Telephone Number 020 7559 5106

Registered number of holder, for example company number, charity number (where applicable)

Registered Business Number 07814568

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mr Rupert James Lindsey Clark
Kemps
41 High Street
Chrishall
Royston
Herts
SG8 8RN

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Party Reference: LBWANDS/00116

Licensing Authority: Wandsworth Council

Annex 1 – Mandatory conditions

- 1 No supply of alcohol may be made under a premises licence -
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- 2 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- 3 (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children -

 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on -
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
 - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
- 4 The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
- 5 The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
- 6 (with effect from 1 October 2010)
 - (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
 - (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
- 7 (with effect from 1 October 2010)

The responsible person shall ensure that -

 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -
 - (i) beer or cider: half pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

- (iii) still wine in a glass: 125 ml; and
- (b) customers are made aware of the availability of these measures.

8 The Licensing Act 2003 (Mandatory Licensing Conditions)
Order 2014

Mandatory Licensing Condition

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1?

- a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(a);
- b) "permitted price" is the price found by applying the formula?

$$P = D + (D \times V)$$

where:

(i) P is the permitted price,

(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence:

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994(b).

(a) 1979 c. 4, Section 1 was amended by regulation 2 of the Excise Duty (Amendment of the Alcoholic Liquor Duties Act 1979 and the Hydrocarbon Oil Duties Act 1979) Regulations 1992 (S.I. 1992/3158), section 162 of and Part I of Schedule 29 to the Finance Act 1995 (c. 4), section 7 of and paragraph 2(a) of Schedule 2 to the Finance Act 1991 (c. 31), section 3 of the Finance Act 1993 (c. 34), section 227 of and paragraph 51 of Schedule 39 to the Finance Act 2012 (c. 14), section 1 of the Finance Act 1995, section 1 of and Part 2 of Schedule 1 to the Finance Act 1988 (c. 39), section 5 of the Finance Act 1997 (c. 16) and article 2 of the Alcoholic Liquor Duties (Definition of Cider) Order 2010 (S.I. 2010/1914). Section 2 was amended by article 6 of the Alcoholic Liquors (Amendment of Enactments Relating to Strength and to Units of Measurement) Order 1979 (S.I. 1979/241), regulation 2 of S.I. 1992/3158, section 11 of and Part 2 of Schedule 8 to the Finance Act 1981 (c. 35), section 7 of and paragraph 3 of Schedule 2 to the Finance Act 1991 and section 5 of the Finance Act 1997. Section 3 was amended by article 7 of S.I. 1979/241. Section 4 was amended by article 8 of S.I. 1979/241, section 15 of and paragraphs 2 and 3 of Schedule 1 to the Finance Act 2011 (c. 11) and section 227 of and paragraph 51 of Schedule 39 to the Finance Act 2012 (c. 14). Section 5 was amended by

section 1 of the Finance Act 1982 (c. 39) and section 180 of the Finance Act 2013. Section 36 was amended by section 7 of the Finance Act 1991, section 4 of and paragraph 1 of Schedule 1 to the Finance Act 2002 (c. 23), sections 14 and 15 of and paragraphs 2 and 4 of Schedule 1 to the Finance Act 2011, section 180 of the Finance Act 2013 and section 1 of and paragraph 9 of Schedule 1 to the Finance (No. 2) Act 1992 (c. 48). Section 37 was amended by section 15 of and paragraph 1 of Schedule 1 to the Finance Act 2011 and section 180 of the Finance Act 2013. Section 54 was amended by section 1 of and paragraph 12 of Schedule 1 to the Finance (No. 2) Act 1992 and section 5 of the Finance Act 1985 (c. 54). Section 55 was amended by section 1 of the Finance Act 1984 (c. 43) and section 1 of and paragraph 13 of Schedule 1 to the Finance (No. 2) Act 1992. Section 62 was amended by section 3 of the Finance Act 1996 (c. 8), section 10 of the Finance (No. 2) Act 1997 (c. 58), section 180 of the Finance Act 2013, section 4 of the Finance Act 1998 (c. 36) and section 3 of the Finance Act 1997. There are other amendments which are not relevant to this Order.

(b) 1994 c. 23. Section 2 was amended by section 3 of the Finance (No. 2) Act 2010 (c. 31). Section 7 was amended by section 76 of and Part 1 of Schedule 36 to the Finance Act 2009 (c. 10) and section 203 of and paragraphs 2 and 3 of Schedule 28 to the Finance Act 2012 (c. 14). Section 24 was amended by section 19 of and paragraph 1 of Schedule 8 to the Finance (No. 3) Act 2010 (c. 33). There are other amendments which are not relevant to this Order.

Annex 2 – Conditions consistent with the Operating Schedule

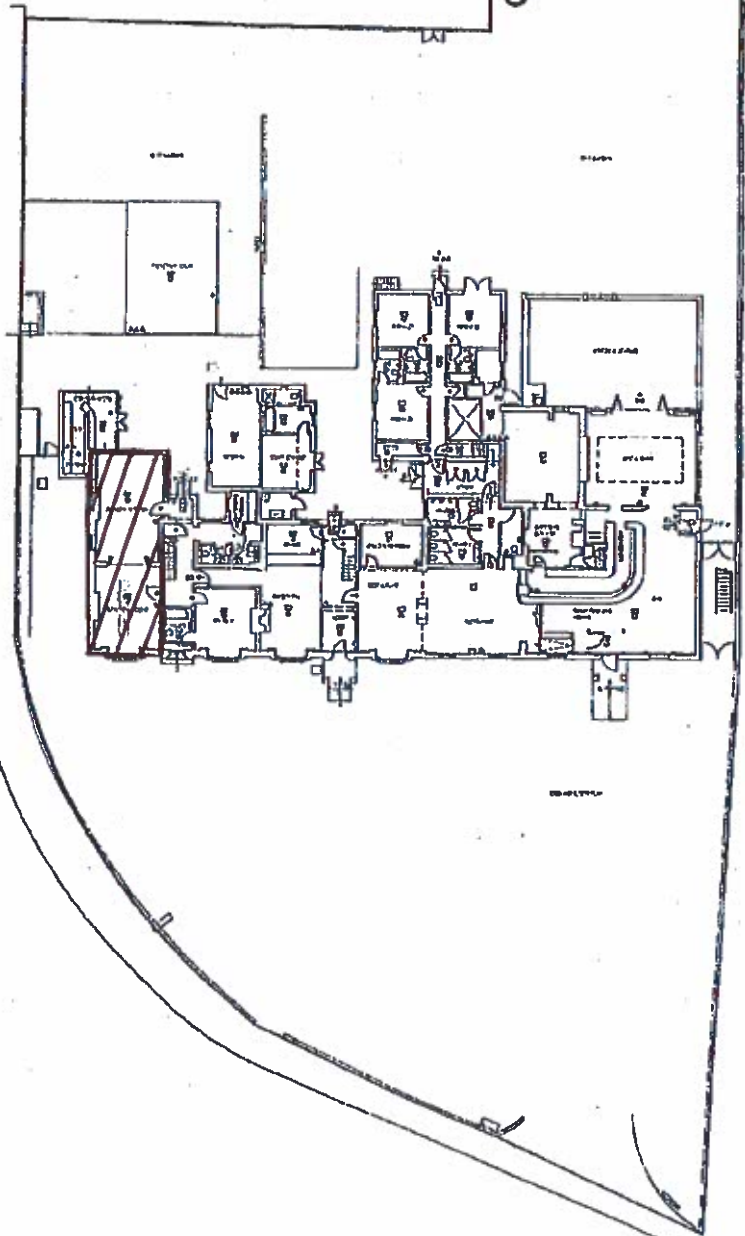
- 1 **General - all four licensing objectives**
- 2 There will be trained staff on duty 24 hours daily.
- 3 **The Prevention of Crime and Disorder**
- 4 The premises will have CCTV in operation.
- 5 External doors will be locked at closing time to the public.
- 6 **Public Safety**
- 7 Risk assessments will be undertaken.
- 8 There will be fire training
- 9 The premises will have signage for fire escape routes.
- 10 **The Prevention of Public Nuisance**
- 11 Staff will be trained to be aware of customers and of their responsibilities re excess of alcohol consumption by customers
- 12 Deliveries will not take place before 07:00 am.
- 13 The bar will be closed to the public from midnight.
- 14 No consumption of alcohol in the gardens after midnight.
- 15 No use of the BBQ facilities after 22:00hrs.

Annex 3 – Conditions attached after a hearing by the licensing authority

- 1 The Licence holder shall provide clear and legible notices displayed at exits and in the car park areas requesting patrons to leave the premises having regard to the needs of local residents, in particular emphasising the need to refrain from shouting and slamming car doors. The sounding of car horns must also be discouraged.
- 2 The Licence holder shall remove to a safe place all empty glass drinking vessels and glass bottles.
- 3 The Licence holder shall require suitable proof of age evidence from any person who appears to be under the age of 18 years and who is seeking access to the premises or is seeking to purchase or consume alcohol on the premises.

Annex 4 – Plans





Bennett, Rachel

From: [REDACTED]
Sent: 10 March 2015 14:15
To: LICENSING
Subject: Georgian Town House Live Music Application

15 Winchester Tower
Vauxhall Street
Norwich
NR2 2SE

Hello,

I have just returned from the Georgian Town House where I have overheard 2 prominent figures in the Norwich music scene discussing with a member of staff live music being performed in the building.

As far as I am aware this isn't on their terms of license and on leaving I could find no application to change of licensing notice on clear display. I have since spoken to residents of Winchester Tower and none were aware of this change being planned.

From speaking to your department today I understand a change of licence has been applied for and I wis to object to this on the grounds of noise.

Since the change of use of this building my quality of living has been affected by the noise from their beer garden / play area. I work nights and the noise during the summer months and times like today of nice weather brings people out to enjoy their beverages in the sunshine. This is all well and good if there is some screening to protect the local residents from the noise that then ensues.

From 11 am the noise from screaming children excited by the garden games on offer and parents shouting and singing would be enough to cope with but from 6-7pm onwards the evening drinkers bring a new level of noise as you can imagine.

So if this was not bad enough you are now preparing to let them have amplified live music during the same hours. I'm sure the business will say they will keep the windows closed but I can assure you this will not be the case in the warmer months. On a whole this change will make my life unbearable and if I can not get adequate sleep my job at risk.

I would love to welcome one of your staff to sit in my flat on a sunny warm late afternoon so that you can understand the torture this business has put me through last summer and no doubt will again this coming one. My bedroom over looks the property and because of the shape of Winchester Tower the noise is amplified as it rises making it feel like I am actually in the beer garden with them.

Please can you also note this is a residential neighbourhood and we have had this entertainment establishment forced on us. it it had already excited before I purchased my flat I wouldn't complain but this is not the case.

Thank you for your time & I await your response.

David Gray

Organisational Development

17 MAR 2015

- Post Room

MR B & MRS YM DACOSTA
62 WINCHESTER TOWER
NORWICH
NORFOLK
NR2 2SF

Dear Sirs,
I am writing on behalf
of residents of Winchester Tower,
We have had a year of noise from
Georgian Townhouse from 11 AM
until 11 PM. every day. and sometimes
later with emptying bottles and people
talking in garden.

We are a community of elderly people
aged 55 to 100. and this is
disturbing and stressful to our
retirement. Now we find they are
putting in an application for live and
recorded music, this is indicated

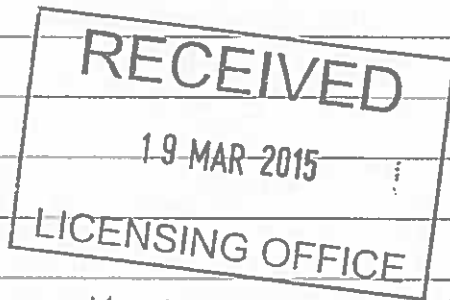
for indoors only, but in the summer
their windows will be opened and
the noise will spill out.

I will invite anyone to visit
my flat 62. Winchester Tower on any
evening from Easter until October to
listen to the noise from men & women
playing table tennis shouting and cheering
to children screaming running about the
garden. To people laughing, talking,
our sitting room window is right above
the garden and as anyone knows noise
travel upwards.

Hope you will consider all our
complaints and our feelings on this
crucial issue.

Yours sincerely,

No 12, WINCHESTER TOWER.
VAUXHALL STREET,
NORWICH.
NORFOLK.



NR2 2SE

WEDNESDAY, MARCH, 18th, 2015.

To Whom It Concerns - HEAD of LICENSING DEPARTMENT.

This is a letter of OBJECTION for the Property on UNTHANK ROAD - THE GEORGIAN TOWNHOUSE NOT to gain a MUSIC LICENSE to play LIVE and recorded music.

The Georgian Townhouse Property and Gardens backs onto WINCHESTER TOWER which contains 95 FLATS, there are several tenants who live here, that have severe disabilities and TERMINAL illness.

IF The Georgian Townhouse gains a Music Licence this will cause the tenants of WINCHESTER TOWER SLEEP DEPRIVITY, due to the NOISE and MUSIC from guests and PARTY GOERS at these functions.

Not only will we have sleepless nights we will also become unwell due to STRESS caused by the NOISY CELEBRATIONS taking place in the gardens and seating Area of the Georgian Townhouse.



Mr J Tedder
9 Winchester Tower
Vauxhall Street
Norwich
NR2 2SE

Ref: Georgian House

Dear Sir/ Madam,

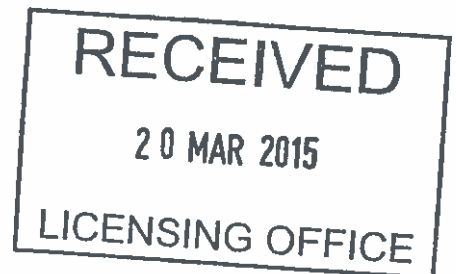
With reference to the variation to the existing licence, my objection to the introduction of live and recorded music to the premises.

Since the new management took over last year, there has been a noise problem with shrieking/ screaming children running round the back garden. Also noise from the barbeque / old stable area up to 10pm.

My concerns are the level of the noise this music will give out, and if it is indoors will the windows and doors be kept closed to contain this noise. Also by the meaning of indoors, will recorded music and live music only apply to the main building and not the barbeque/ old stable area.

These are a few of my concerns with regard to this application.

Yours Sincerely



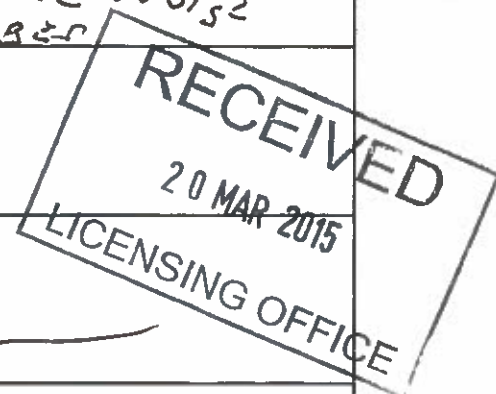
Norwich City Council Licensing Authority Licensing Act 2003



NORWICH
City Council

Statement of support or objection to an application for a premises licence

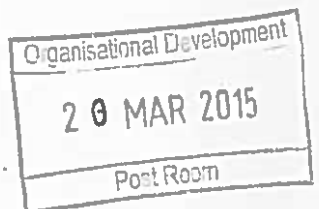
Your name/organisation name/name of body you represent (see note 1)	David GRAMHAM FARMER ORG. - NOVE
Postal address	76 WINCHESTER TOWER
Email address	
Contact telephone number	
Address of the premises you wish to support or object to	GEORGIAN HOUSE HOTEL OXTOWN HOUSE
Your support or objection must relate to one of the four licensing objectives (see note 2)	
Licensing objective	Please set out your support or objections below. Please use separate sheets if necessary.
To prevent crime and disorder	NONE
Public safety	NONE - THE NOISE IS TOO LOUD
To prevent public nuisance	YES
To protect children from harm	NONE
Please suggest any conditions which would alleviate your concerns	ALL of it. DON'T LIKE THE NOISE
Signed:	Date: 20.3.15



THE WINCHESTER TOWER RESIDENTS

WE ARE OBJECTING TO THE GEORGIAN
TOWNHOUSE, UNTHANK ROAD NORWICH
APPLICATION FOR LIVE AND RECORDED
MUSIC FROM 11 AM UNTIL MIDNIGHT
EVERY DAY. WE HAVE HAD ONE YEAR
OF NOISE AND DISTURBANCE FROM THE
GEORGIAN AND ALL RESIDENTS ARE
FED UP WITH THE CONTINUING NOISE,
HOPE YOU WILL CONSIDER OUR
SITUATION AS THE MAJORITY ARE
ELDERLY PENSIONERS.

THANK YOU.



ADDRESS.

69 WINCHESTER TOWER

12 W/T.

43 W/T

2 W/T

2 W/T

71 W/T

7 W/T

54 WT

15 WT

68 WT

14 WT

33 WT.

46 W.T.

93 Wink

20 W.T.

67, Winchester

8 Winchester

68 WINCHESTER

91 Winchester, T.

56 W T

4 Winchester Tower

44 W/T

53 W/T



ADDRESS

3 WINCHESTER
TOWER

WT 58

No 35

No 62

62 WT

30 WT

92

86

21

85 WT

37 WT

36 WT

25 WT

84 w/r

46 W.T.

23 W.T.



APPENDIX C

Local Policy considerations

1.0 Introduction

1.4 The 2003 Act requires the council to carry out its various licensing functions so as to promote the four licensing objectives. These are:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

1.5 The 2003 Act also requires that the Council publishes a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.

2.0 Consultation and Links to other Policies and Strategies

2.7 So far as possible, the council will avoid duplication with other regulatory regimes, and will not to use its powers under the Licensing Act 2003 to achieve outcomes that can be achieved by other legislation and other enforcement agencies. As an example, the council will not seek to impose fire safety conditions that may duplicate any requirements or prohibitions that could be imposed under the Regulatory Reform (Fire Safety) Order 2005.

3.0 Applications for Licences

3.2 Applicants must address the four licensing objectives in their operational plan. The operating plan must have regard to the nature of the area where the premises are situated, the type of premises, the licensable activities to be provided, operational procedures and the needs of the local community. The operating schedule must demonstrate how the premises will be "good neighbours" both to residents and to other venues and businesses.

3.3 Applicants must provide evidence that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style, location and characteristics of their premises and activities. They must also indicate if additional measures will be taken on an occasional or specific basis, such as when a special event or promotion is planned, which is, for example, likely to attract larger audiences.

4.0 Representations

4.1 "Responsible Authorities" (see Appendix 7) will be asked to consider all applications and to make representations to the council, if they relate to the promotion of the four licensing objectives and particularly in respect of applications which, might be regarded as contentious. Representations must be

evidentially based and the organisation should attend any hearing when the application is being considered. Representations can be made in opposition to, or in support of, an application.

- 4.2 The council will consider all representations from any “Interested Party” (see Appendix 7), or their representative, which should preferably be evidentially based and supported by attendance at any hearing at which the application is being considered.
- 4.3 A representation will only be accepted by the council if it is ‘relevant’, i.e. it must relate to the likely effect of granting the licence on the promotion of at least one of the four licensing objectives. Representations, that are regarded as being frivolous or vexatious, will not be considered, and in the case of a review of a licence, any representation which is regarded as repetitious, will also not be considered. A decision as to whether a representation is frivolous, vexatious or repetitive will be made by an officer of the council.
- 5.0 Conditions attaching to Licences
 - 5.1 Where relevant representations are made, the council will make objective judgments as to whether conditions may need to be attached to the premises licence to secure achievement of the licensing objectives. Any conditions arising as a result of representations will primarily focus on the direct impact of the activities taking place at licensed premises, on those attending the premises, and members of the public living, working or engaged in normal activity in the area concerned, and will cover matters that are within the control of individual licensees.
 - 5.2 All applications will be considered on an individual basis and any condition attached to such a licence, will be tailored to each individual premises, in order to avoid the imposition of disproportionate or burdensome conditions on those premises. Therefore, mandatory conditions, will only be imposed where they are appropriate for the promotion of the licensing objectives.
- 8.0 The Impact of Licensed Premises
 - 8.1 When considering whether any licensed activity should be permitted, and a relevant representation has been received, the likelihood of it causing unacceptable adverse impact will be assessed by taking into account relevant matters including:
 - the type of use, the number of customers likely to attend the premises and the type of customers at the time of the application;
 - the proposed hours of operation;
 - the level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that will be used by the customers;
 - the means of access to the premises including the location of customer entrances and exits;
 - the provision of toilet facilities;
 - the frequency of the licensable activity.

With any adverse impact it may be possible to take steps to mitigate or prevent the impact and if such measures are reliable an activity may be licensed.

13.0 Management of Licensed Premises

- 13.1 Within the operating schedule for premises from which alcohol will be sold, with the exception of qualifying community premises, a premises supervisor must be designated (designated premises supervisor) and such person must be in possession of a current personal licence. The licensing authority will normally expect the designated premises supervisor [DPS] to have been given the day to day responsibility for running the premises by the premises licence holder and, as such, would normally be present on the licensed premises on a regular basis. In addition to the DPS holding a personal licence, the licensing authority would strongly encourage the DPS to undergo additional training and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.
- 13.2 The act does not require a DPS or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the DPS and the premises licence holder remain responsible for the premises at all times and have a duty to comply with the terms of the licensing act and any conditions, including the matters set out in the premises' operating schedule, in order to promote the licensing objectives. To that end, the licensing authority will be mindful of the guidance issued by the secretary of state, which recommends that a personal licence holder/DPS gives specific written authorisations to those individuals they are authorising to retail alcohol. Although written authorisation is not a requirement of the act and the designated premises supervisor/personal licence holder remain ultimately responsible for ensuring compliance with the act and licensing conditions, this action could assist in demonstrating due diligence should any issues arise with regard to enforcement.

The licensing authority will therefore expect that where the personal licence holder/DPS does not have the premises under their immediate day to day control, written authorisations will be issued to staff acting on their behalf, such authorisations being made available for inspection by a responsible Officer of the licensing authority or the police upon request.

LICENSING OBJECTIVES

24.0 Objective - prevention of public nuisance

- 24.1 Licensed premises can potentially have a significantly adverse impact on communities through public nuisances that arise from their operation. The amenity of residents and occupiers of other businesses should be maintained and protected from the potential consequence of the operation of licensed premises, whilst recognising the valuable cultural, social and business importance that such premises provide.
- 24.2 Public nuisance will be interpreted in its widest sense, and will take it to include such issues as noise, light, odour, litter and antisocial behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

- 24.3 Applicants should be aware that stricter conditions, including controls on licensing hours for all or some licensable activities will be applied, where licensed premises are in residential areas or where their activities may impact on residents or other business premises, and where relevant representations have been received. Conversely, premises for which it can be demonstrated have effective measures to prevent public nuisance, may be suitable for longer opening hours.
- 24.4 The council will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are exceptional reasons such as disturbance or disorder attributable to the location and/or the premises, and relevant representations have been made.
- 24.5 The council believe that the impact a licensed premises can have on a neighbourhood is significantly influenced by the times when those licensed premises are open, and the times when licensable activities are taking place. Consequently, the council has adopted a policy on hours of trading, (section E) and in so doing, has given full consideration to the secretary of state's guidance on hours of trading.
- 24.6 **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events. For example, the increasing business requirement for licence holders to provide live or recorded music in premises where this has not previously been the case is especially pertinent, and should be fully assessed on the application.**
- 24.7 When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:
- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices, care homes and places of worship
 - the hours of opening, particularly between 11pm and 7am
 - the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
 - the design and layout of premises and in particular the presence of noise limiting features
 - the occupancy capacity of the premises
 - the availability of public transport
 - wind down period between the end of the licensable activities and closure of the premises
 - last admission time
 - preventing litter and refuse becoming an eyesore
 - consideration of local residents that they are not upset by loud or persistent noise or by excessive light
 - preventing cars attending an event or premises from causing a noise nuisance and congestion, and from taking up local people's parking spaces
 - avoid early morning or late night refuse collections

- avoiding emptying bins into skips, especially if they contain glass, either late at night or early in the morning
- customers eating, drinking or smoking in open air areas (for example beer gardens/forecourts and other open areas adjacent to the premises).

24.8 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises.
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, eg to ensure customers leave quietly.
- Fit prominent signs requesting that customers respect local residents and leave quietly.
- Control of operating hours for all or parts (eg garden areas) of premises, including such matters as deliveries ie not too early in the morning.
- Adoption of best practice guidance (eg Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics, Licensed Property: Noise, published by BBPA).
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
- Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises.
- Liaison with public transport providers.
- Siting of external lighting, including security lighting.
- Management arrangements for collection and disposal of waste, empty bottles etc.
- Effective ventilation systems to prevent the emission of unwanted odours.
- Take away packaging to include the name and address of the premises on it.
- Capacity levels for fast food outlets.
- Introduce a chill out area with coffee and mellow music where customers can settle before leaving.
- Introduce a closed door policy, with attendance prohibited for new customers 2 to 3 hours before licensable activities finish.

To address issues arising from customers smoking, eating and drinking in outdoor areas and on the highway outside the premises could include signage asking customers to keep noise to a minimum when using outdoor areas; restrictions on the numbers of customers permitted in certain outside areas and/or at certain times; and use of door-staff and employees to monitor possible public nuisance issues.

SECTION E - Hours of Trading

30.7 Consideration will always be given to an applicant's individual case and if the matter of trading hours has been raised in a representation, the council will take into account any proposals the applicant has to minimise the risk of nuisance or disorder being caused or exacerbated by customers departing from the premises. It is however, unlikely that statements such as the premises being well-managed, or that the applicant is of good character or that the style of the premises is

intended and likely to attract a discerning clientele, will alone be sufficient to demonstrate that restrictions on hours of trading should not be applied.

APPENDIX D

National Guidance

(issued under section 182 of the Licensing Act 2003)

Licence conditions – general principles

1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:

- must be appropriate for the promotion of the licensing objectives;
- must be precise and enforceable;
- must be unambiguous and clear in what they intend to achieve;
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- must be tailored to the individual type, location and characteristics of the premises and events concerned;
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- should not replicate offences set out in the 2003 Act or other legislation;
- should be proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format.

Each application on its own merits

1.17 Each application must be considered on its own merits and in accordance with the licensing authority’s statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

Public nuisance

2.18 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

2.19 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

2.20 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues.

2.21 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

2.22 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late-evening or early-morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise immediately surrounding the premises may also prove appropriate to address any disturbance anticipated as customers enter and leave.

2.23 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may

itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.

2.24 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

Determining actions that are appropriate for the promotion of the licensing objectives

9.41 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.42 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

9.43 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

Conditions attached to premises licence

General

10.1 This chapter provides further guidance in relation to conditions attached to premises licences and club premises certificates. General principles on licence conditions are set out in Chapter 1 (see paragraph 1.16).

10.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by a fine of up to £20,000 or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.

10.3 There are three types of condition that may be attached to a licence or certificate: proposed, imposed and mandatory. Each of these categories is described in more detail below.

Proposed conditions

10.4 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.

10.5 It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention.

Consistency with steps described in operating schedule

10.6 The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.

10.7 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence or certificate in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder or club must be clear to the licence holder, club, enforcement officers and the courts.

Imposed conditions

10.8 The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.

10.9 It is possible that, in certain cases, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions are appropriate to promote the licensing objectives.

Proportionality

10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

Hours of trading

10.13 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.

10.14 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.

The need for licensed premises

13.18 There can be confusion about the difference between the “need” for premises and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.