



**NORWICH**  
City Council

## **NOTICE OF DETERMINATION**

Date of Committee: Wednesday 26 September 2018

Application for the variation of a premises licence

Name of Applicant: Mr Steve Peri

Name of Premises/Postal Address of Premises: Bished (formerly Roccas) 86-88  
Prince of Wales Road, Norwich NR1 1NU

Members of Licensing Sub-Committee: Councillors Malik (Chair), Davis and Raby

Other Persons present: Ms Michelle Bartram of Norfolk Police, PC Spinks of Norfolk Police, Mr Gavin Tempest representing the applicant, Mr Levi Sullivan DPS, H Ross, Abigail Turner-Evans and David Letheridge being interested parties, David Hannant, press representative, Maxine Fuller, Norwich City Council Licensing section and D Lowens, solicitor, and J Cunnington-Brock, trainee solicitor of nplaw (Norfolk County Council).

Cllr Malik mentioned the condolences of those present to the friends and family of Mr I Peri

A detailed plan reference AT/38/01/A showing the ground floor general arrangement with the licensed area outlined in red was circulated.

There were no declarations of interest.

### **NOTES OF HEARING:**

Ms Fuller presented the report. A discussion was held relating to the number of conditions proposed to be changed, it was agreed that the application in this respect was to change conditions numbered 3, 4, 7, 17 – 48 inclusive and 49.

Mr Tempest addressed committee on behalf of the applicant. He noted the Designated Premises Supervisor was already running the Flaunt nightclub in Prince of Wales Road. This application was to provide a "playground" theme to these premises which he explained meant a circus and pyrotechnic theme. The applicant via Code Red had operated Mercy and Rocco's nightclubs and Mercy had over 2000 persons attendance limit. In summary the application was to add two hours to the operation to match the adjoining premises of Mercy nightclub (closed at present) and the applicant stated the application satisfies all licensing objectives and was a variation rather than a new premises application. The various floor acts are a tried and tested concept and had been implemented by several temporary event notices in

August. Everything in the plan provided to committee has been built. The applicant suggested that the loyal customer base of Mercy would attend the premises and therefore this would not be an increase in capacity for the entertainment zone, the applicant viewed that in many respects Bished reduces the transfer of customers between premises and therefore reducing their impact. A minimum charge of £5 entry was suggested as likely.

Regarding the operating conditions the applicant had contacted the Environmental Health dept and the Fire and Rescue Service and the conditions had also been discussed with the Norfolk Constabulary. The applicant was not complacent and for each event the operator would conduct a risk assessment. Decisions relating to glassware, presence of numbers of SIA door staff etc. would be considered on a day by day basis.

The applicant confirmed that the risk assessment in respect of events on the premises would not be for routine events but just for special events involving specific advertising and promotions.

The applicant noted the cumulative impact policy had not been reviewed since its introduction and in the applicant's view the detailed picture of crime and disorder in the Prince of Wales area is changed from that which existed at the introduction of the policy, the applicant suggested there is now less drinking from young persons and a smaller level in Norwich of "vertical drinking". The national guidance is for the policy to be reviewed often, this has not been done in Norwich and so the applicant viewed it as questionable to enforce the policy without new data. The applicant viewed the crime figures used to justify the need for the cumulative impact policy as being out of date and now unreliable.

The applicant noted Bished is a relatively small premises with the business plan based on attracting loyal customers, would be entertainment led, was not intending to provide cheap alcohol and was intended to reduce crime and disorder problems. The applicant noted also there were precedents for the police not raising complaints in the cumulative impact zone and suggested the venue had successfully traded over 5 weeks via temporary event notices.

The applicant was questioned by Councillors relating to problems noted on the police evidence of failures regarding checking for underage persons on entry, queue management, searches not taking place and so on as listed on page 46 of the agenda. The applicant responded that whilst there had been problems at the opening night later events had not raised significant issues. Whilst problems on the opening night were not disputed the premises had been let down by two supervisors not turning up for work.

The applicant confirmed that the venue under temporary event notices had not been opening until 4 am. The Designated Premises Supervisor noted that the venue generally stays open until between 2.30 and 3.30 a.m when questioned by Cllr Raby whether a fair test of staying open until 4 am had taken place under TEN's.

Committee noted an apparent conflict as to certain conditions on pages 37 and 38 of the agenda. It was noted that plastic or polycarbonate drinking vessels will be used including bottles where drinks are served in them and if not available, then

toughened glass will be used. However the risk assessment for special events includes consideration of whether plastics or polycarbonates are to be used at all.

The applicant confirmed that there would be no entertainment of a sexual nature.

When asked to expand upon the "playground" theme the Designated Premises Supervisor mentioned a twisted circus with balloon drops, inflatables, confetti, and fire-breathing being more of an experience than a nightclub.

The DPS confirmed the premises had a breathalyser.

Cllr Raby sought from the police their views on staggered closing times, the police noted that they were concerned regarding late night dispersal and had noted an upsurge in incidents at takeaways and taxis if all persons who wished to be served were not served.

The applicant noted they were looking for 4am to try to keep the customers who went to Mercy, closing times were dynamic. The premises was trying to avoid any condition that would require paying staff when there was nothing for them to do. This included the payment of SIA doorstaff.

Norfolk Constabulary requested that any risk assessment be agreed with them.

There was a discussion between the police and the applicant relating to the provision of food. The applicant stated that the entertainment would be the attraction, not food. It was not the intention to have persons using a seated food consumption area. The applicant noted that they would be happy for condition 15 relating to the need for substantial food to be available for sale at all times to be removed.

Norfolk Constabulary then addressed committee giving their sympathy to the applicant. The police noted the applicant as well as extending the hours for alcohol is looking to extend the last entry time from 1 a.m. to 3.15 a.m. The premises had previously been food orientated with a relatively early closing time and were effectively a feeder premises to the Mercy nightclub. The owner now wished to operate the premises in a different way. The police were concerned that if the theme of "playground" does not work Prince of Wales Road would have another vertical drinking establishment with late opening hours with persons drinking for longer and more persons leaving the premises later increasing in the police view the risk of crime and disorder.

The police noted the door staff struggled to maintain order on the opening night. The premises still closed at 2.30 a.m. on the opening night, so it was not a good test as to how the premises would be managed on later hours. On 17<sup>th</sup> August and 25<sup>th</sup> August the premises closed early as significant footfall was not present. Concerns have been raised with the management and these were dealt with promptly. It was fair to say that the police did not receive similar issues on later dates but again it is difficult to judge how the management team will manage later hours. The extended hours mean individuals will try to come into the premises which would not happen currently. The police view remained that the application if granted would take away the venue of a restaurant turning it into a drinking establishment with a later entry time and would have a detrimental effect on the licensing objectives.

The applicant confirmed in response to a question from the Chair that the "playground" theme would not be on all the time but just for certain events.

The applicant questioned whether SIA staff were necessary thinking proportionality and noting that some premises did not have any.

When questioned by the applicant as to the use of the Roccos premises the police understanding was that half the capacity was a bar and half a seated restaurant. Regarding the temporary event notices used by the premises the police stated they were unaware of these being used due to the limited number of persons attending. If the premises had been busy then the police would likely have noticed more difference from the use of TEN's.

When questioned by Councillors regarding the provision of food the Designated Premises Supervisor stated this could be looked into but would not be a table meal or similar but could be something quick and easy like hot dogs.

The applicant asked the police for their view as to how the Prince of Wales Road area had changed since the introduction of the cumulative impact policy. The police response was that numbers were less than they used to be but persons would still go out on special occasions. The worst hours for the police were between 2 a.m. and 4 a.m. which is when crime and disorder issues arose. Ms Bartram noted that the premises "Lost" has re-opened .

The applicant noted the food preparation area in the premises had been removed and there was no longer any provision for a kitchen.

In summing up the applicant noted that the premises were open until 2.30 a.m. and now sought 4.00 a.m. and persons visiting were likely to be loyal customers by and large and the premises were providing a different offer of entertainment instead of vertical drinking.

#### **DECISION OF COMMITTEE:**

The decision of the committee is that the application was granted in part and refused in part.

The committee refused to extend the hours of opening or to extend the hours of licensable activities. The licensable activity of the provision of plays was allowed on the current hours. The committee agreed to the altered plan layout. The committee agreed to remove current conditions 4, 7, 15, 17-48 and 49 but did not agree to remove condition number 3 being the last entry time condition.

The committee imposed the requirement that in respect of the risk assessment for specifically advertised events police agreement would be needed to the contents of such a risk assessment.

## REASONS FOR THE COMMITTEE'S DECISIONS:

The committee gave weight to the section 182 Licensing Act 2003 statutory guidance regarding the police being a prime source of advice and assistance when considering the crime and disorder licensing objective. The committee noted that the police were opposed to the extension of hours. The committee had heard that issues relating to crime and disorder concerned the police between 2.00 a.m. and 4.00 a.m. in this area, having heard from an experienced officer on this point and noting the police representations. The committee was concerned that later opening hours when added to a later last entry time and a change in the use of the premises to be a more drink focused "vertical drinking" establishment rather than a restaurant had the likelihood of increasing the crime and disorder in the area. The evidence of the police that there was a likelihood of an increase in crime and disorder due to a longer period of alcohol consumption and flash points at entry to the premises were accepted.

The committee did not give weight to the cumulative impact policy when coming to its decision.

Committee noted the management failures regarding disorder on the opening night and noted and accepted the police evidence that the use of temporary event notices had not been sufficient to show the likely effect of extended opening hours and amendment of the last entry condition due to the fact that the premises had not had many customers nor been open to the extent the TEN's permitted.

## RIGHTS OF APPEAL:

Rights of appeal are set out in Schedule 5 of the Licensing Act 2003. Any person wishing to appeal this decision or any part of it should apply to a magistrates' court within 21 days of the date they are notified of the decision appealed against.

Dated this 12 day of October 2018

Signed by chair.....

Date.....5.11.18