

Notice of Determination in respect of an application for the grant of a premises licence under the Licensing Act 2003 for Erpingham House, 22 Tombland, Norwich, NR3 1RF

Licensing Sub-Committee date – 15 September 2022

Members of committee present– Councillors Ian Stutely (Chair of committee), Ackroyd and Huntley

Applicant – Plantrepreneur Limited, company number 13391969.

This committee was held in the Council Chamber, City Hall, Norwich.

List of attendees:

	Name	Role
1	Cllr Caroline Ackroyd	Committee member
2	Cllr Jacob Huntley	Committee member
3	Cllr Ian Stutely	Committee member, Chair
4	Maxine Fuller	Public Protection Licensing Advisor
5	Leonie Burwitz	Committee Officer
6	Loui Blake	Applicant's representative
7	Hugh Macdonald	Objector
8	Anne Paget	Objector
9	Pernille Rudlin	Objector
10	David Lowens	Solicitor, legal advisor to committee
11	Salina Hoang-Curson	Trainee solicitor, observer.

Summary Notes of Hearing

There were no apologies received, nor were any declarations of interest made.

There were no additional papers provided to committee and the other parties, other than a copy of the premises licence and plan previously held in respect of the premises by Erpingham House Ltd.

Ms Fuller presented the report to committee and mentioned that the condition proposed by the Norfolk Constabulary had been agreed as part of the proposed operating schedule, and therefore there was no outstanding representation by the Norfolk Constabulary.

Mr Blake was then invited by the Chair to explain how the business was currently being run.

Mr Blake addressed committee, noting that the business was set up in 2018 and after a period of expansion had now scaled back to the Norwich site due to the pandemic. He mentioned the support given to charities. He said there was a change

of ownership in 2022 and he had been retained to run the business, but they had failed to apply for the transfer of the previous premises licence which is the reason for this new application. There had been no sale of alcohol for eight weeks, causing damage to the business. Without the sale of alcohol being permitted, the business was not viable. He noted that there had not been any call to the premises by the police nor had local residents directly raised any concerns with the business.

The legal advisor to committee asked Mr Blake to clarify parts of the application.

Mr Blake confirmed that live music was intended indoors only.

In respect of recorded music, noting that background music did not need a licence to take place, Mr Blake amended the application to withdraw this part of the application.

It was the intention to seek late night refreshment on an indoors only basis and any suggestion that outdoors was requested was withdrawn.

Mr Blake confirmed the application was in respect of on-premises sales of alcohol only, no off-premises sales were sought. Mr Blake also confirmed that in respect of the CCTV proposed conditions this would cover the licensing authority and its officers in the same way that it covered the police, and the proposed condition was amended accordingly regarding obtaining a copy of CCTV images.

Mr Blake was asked by Cllr Huntley where live music was intended to take place and he confirmed that it was in respect of the lounge bar only. The application was amended to note that live music was only sought in respect of the marked lounge bar area.

Mr Blake explained regarding the control of noise nuisance that there was signage and staff asked customers to leave quietly. Since opening in 2018, only limited events involving live music took place, none had occurred so far this year. The premises did not have amplification equipment like a nightclub and when live music was permitted generally it was only attended by 20-25 persons.

The Chair sought to establish why the hours sought had been chosen. After reflection the application was amended to reduce the sought hours for live music to finish at 22:00 hours on all days.

Ms Paget addressed committee. She noted their concerns as local residents related to noise nuisance and mentioned the previous unsatisfactory management of the premises. She had previously suffered nuisance from recorded music and noted that the previous licence for the premises had conditions dealing with the control of noise which were not shown in the newly proposed operating schedule conditions and invited the committee to reproduce these.

The committee paused whilst Mr Blake reviewed the conditions of the previous licence. Mr Macdonald left during the break.

Ms Rudlin was invited to address committee. She mentioned that she was a local resident living in Princes Street. Her concerns were not so much how the current business was run but how it was run by previous management. She mentioned the anti-social behaviour arising from members of the public in the Tombland area.

Mr Blake said the applicant was happy to agree that their proposed operating schedule would include conditions 24 and 25 on Annex 2 of the old premises licence, dealing with noise control. The premises had a noise measuring device but did not have a noise limiter.

He was happy to introduce the conditions which previously existed onto any new licence.

The legal advisor then discussed the previous conditions and Mr Blake confirmed that the following changes were introduced:

Annex 2 condition 3 – “There will be a one hour “chill out” period after the licensed activity of the sale of alcohol has ceased to allow for people waiting for transport home to remain on the premises”.

Annex 2 condition 5 - to insert “or any similar body” after mention of Pubwatch.

Annex 2 condition 11 – 25 replaces 18.

Annex 2 condition 19 is deleted from those conditions proposed as part of the operation schedule.

The proposed hours for the sale of alcohol were amended in respect of finishing hours:

Monday to Friday, and Sunday, finishing at 01:00 (the following day) and on Saturday finishing at 02:00 (the following day).

The Chair noted the statutory guidance regarding the individual responsibility of persons for their behaviour when outside the control of the licensee.

Discussion took place regarding the possible noise from waste disposal, and Annex 2 condition 21 of the old licence was proposed for the new operating schedule with the following changes:

Annex 2 condition 21 – “The premises must ensure that the removal of waste and refuse from the premises, including bottles, only takes place between 7am and 10pm.

Ms Paget said she was encouraged by the responses to residents’ concerns.

In discussion with the committee Mr Blake amended some contents of the proposed operating schedule contained in the agenda as follows:

“open” to be added to box a, so it reads “...when the premises are open for any licensable activity..”

Box b contents are amended- point 3 is to read “Cameras viewing till areas must capture a view showing the till on not less than 50% of the screen area”.

Points 4 and 5 are deleted.

Point 7 is amended to add at the end of the current sentence “and which are of sufficient quality to be successfully used as evidence”.

Point 8 is deleted.

Points 14 and 15 are amended to add “and the licensing authority” after the word “Police”.

Mr Blake was invited to sum up on behalf of the applicant, he had nothing further to add to the matters already mentioned. The decision of committee was given after a period of private deliberation.

Decision

The application as amended is approved and the premises licence is granted. No additional conditions are imposed by committee.

Reasons for the committee’s decision

The application has been significantly amended and concerns about noise nuisance are felt to have been answered sufficiently by the introduction of relevant conditions, reduced hours regarding live music and the removal of recorded music from the licensable activities sought.

Committee accepts the evidence of Mr Blake regarding the lack of police involvement and the lack of any direct complaint made to the premises by residents. There is no reason to think that the licensable activities as amended will cause noise nuisance or other disturbance in this locality. The review procedure is of course available if this proves not to be the case. The management appears to be responsible and has proposed noise controls. A period of drinking up time should reduce the likelihood of anti-social behaviour arising from customers leaving the premises. The statutory guidance regarding individual responsibility has also been noted and whilst representations have been made regarding anti-social behaviour in the area there is no evidence before committee suggesting that these premises and their current management are at fault. The committee notes and gives weight to the fact that there are no outstanding responsible authority objections, especially from the police and from the environmental health team, as may have arisen should there have been matters of concern to them in the application.

Activities are indoors only which is relevant to the risk of nuisance arising.

Rights of appeal

Relevant rights of appeal in the circumstances of this application and decision are set out in Schedule 5 of the Licensing Act 2003, as follows

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 of the Licensing Act 2003,

they may appeal against the decision

Any appeal should be raised with a magistrates' court within 21 days of receipt of the written decision appealed against.

A handwritten signature in black ink, consisting of a stylized 'S' followed by a horizontal line and a small flourish.

Signed.....Chair, Licensing Sub-Committee.

13/10/2022