



NOTICE OF DETERMINATION

Date of Hearing:	Wednesday, 26 February 2014
Licence Type:	Application for a fixed term Premises Licence
Name of Applicant:	Norfolk and Norwich Festival Trust
Postal address of Premises or description of Premises:	Part of Chapelfield Gardens, Chapelfield East, Norwich
Licensing Sub-Committee:	Councillors Gayton (Chair), Gihawi and Maxwell
Present on behalf of Applicant:	CG Harding, Claire Lovell, Caroline Jarrold, Mark Denbigh, Stephen Forster
Responsible Authorities:	No representations made.
Members of the Public present:	Adam Ziolkowski, Thomas Ziolkowski, Sandra Seddon, Keith Nash
Other persons present:	Mr D Lowens (nplaw), Mr A Shearman, Mr I Streeter.

DETERMINATION:

Councillors approved the application for a fixed term premises licence for the licensable activities sought at the location specified in the application and for the areas, times and days requested in the application.

The councillors heard from representatives of the applicant, from Mr Anthony Shearman of the environmental health section who assisted the Licensing Sub-Committee regarding the measurement of noise, from Mr Ian Streeter who presented the report and addressed councillors regarding the standard process for applications to be viewed by members of the public upon request, from Mr Thomas Ziolkowski (on his own behalf and as representative of the Chapelfield Gardens Residents Association), from Mr Adam Ziolkowski, from Mr Keith Nash being a member of the Association and from Sandra Seddon.

During the application the applicant noted that they would amend their operating schedule to insert the following conditions:-

1. Hourly noise readings are to be taken by the applicant at a location to be set with the Environmental Health Department of Norwich City Council.
2. Toilet cleaning shall take place no earlier than 8am and no later than 10pm on any day.

A number of matters were raised in respect of the application process by Mr Ziolkowski who referred councillors to his additional documentation dated 18 February and 24 February which were considered by the Licensing Sub-Committee. A number of photographs had also been provided by letter of the 23 February and these were considered. Comments on case law were noted.

Regarding the question of public access to the application councillors heard from Mr Ian Streeter regarding the standard process and from an objector that he had been unable to obtain details. The councillors decided that documents including the Norfolk and Norwich Festival 2014 Event Management Plan and Guidance Notes (which included a plan of the premises) had been available for public consultation and review. It was understood that the only documents that would not have been provided upon request were correspondence between the Licensing Authority and the responsible Authorities.

Regarding the plan attached to the application it was agreed that any faults were of a very minor nature. There was no suggestion that prejudice had been caused to any party. A failure to state the level of any stage above the ground was noted but it was understood that there would be no stage provided as part of the current application although a variation was likely to be received dealing with this point. Whilst the level of detail could be improved essential matters were shown upon the plan including the location of licensable activities by reference to the structures shown and the area of Chapelfield Gardens being used. Some matters could be inferred from the attached written documentation for example the location of fire controls. Councillors reviewed the regulation dealing with plan contents before coming to this view.

Regarding the advertising of the application there was a dispute regarding the colour of notices placed on site with a Trust representative mentioning that blue notices had been prepared and an objector disputing that they had been placed. It was noted that no objector had a complaint regarding the contents of the advertisements but complained regarding the colour of the advert and the numbers placed. The Licensing Sub-Committee felt no one had been prejudiced even if it had been the case that a white rather than a blue notice had been placed and that any error was of such a minor nature that it should not prevent the application proceeding.

Regarding the application being void for uncertainty it was noted that the application was certain regarding the dates, times and details of the licensable activities sought and whilst there was an inevitable degree of uncertainty caused by the running of what was a complex temporary event in temporary structures there was sufficient clarity to what was being sought to enable the Council to proceed especially noting its powers to impose the necessary conditions to bring certainty to matters needing to be clarified under the licensing objectives.

The councillors considered that the substantive issue was the question of noise nuisance and disturbance arising from members of the public and from amplified music and other amplified noise at the premises. Members took account of the controls to be present, especially the setting of the noise maximum level by the Environmental Health Department which noise level would be clearly visible at the sound desk of the spiegel tent inside the premises. Noting the temporary nature of this event and the noise controls councillors did not think that unreasonable nuisance from amplified music or use of the public address system would occur. Regarding the behaviour of members of the public present at and leaving the premises it was noted that there would be members of security staff present to attempt to control these matters but that again noting the temporary nature of this event and the limited number of hours where disturbances might occur through lawful and not unreasonable behaviour it was felt there was insufficient reason to refuse the licence or reduce the hours sought.

The following conditions are added in accordance with the matters mentioned as agreed with the Norfolk Constabulary and the need to ensure that those matters relevant to the licensing objectives contained in the operating schedule do not change following the grant of the premises licence:-

1. Patrons will be prevented from taking any open drinking vessel containing alcohol off the site.
2. The organisers will ensure that plastic vessels are used in replacement of glass vessels where appropriate.
3. The final written copy of the risk assessment will be submitted and agreed with the Police and the Licensing Authority 14 days prior to the event.

(Items 1-3 above are those conditions agreed between the applicant and the Norfolk Constabulary.)

4. Security staff will be provided at the numbers and for the locations and times mentioned on pages 42-44 of the Agenda.
5. Areas licensed for the sale of alcohol will be separated and enclosed with barriers or other structures.
6. Areas licensed for the sale of alcohol will be monitored by SIA registered door supervisors.
7. The spiegel tent general manager will liaise with Norfolk Police to ensure that security staff and stewards are appropriately SIA qualified in line with the Security and Industry Act 2001.
8. All security staff will wear fluorescent armbands to display their SIA badge.
9. Patrons will be prevented from bringing any alcoholic beverages onto the premises.
10. Glass will not be placed in recycle bins between the hours of 2100 to 0800 the following day.

11. The spiegel tent PA system will be given a maximum noise limit which will be set and notified in writing to the applicant by the Environmental Health Department of the Council. A noise level meter will be placed on the sound desk within the spiegel tent during any period when the spiegel tent PA system is in operation. The noise level set by the Environmental Health Department shall not be exceeded.
12. The café/bar PA system will have a decibel level/noise level set by the Environmental Health Department of Norwich City Council which level must not be exceeded. Notification of the level will be given in writing. The café/bar PA system will not be in use at the same time that the spiegel tent PA system is in use. The café/bar PA system will not be used after 2300 on any day. The outdoor café/bar will close by 2300 on Sundays, at midnight on Monday to Thursdays and 0100 the following day on Fridays and Saturdays. The Spiegel tent closing times, including the bar, are midnight on Sundays, 01:00 the following day on Mondays to Thursdays and 02:00 the following day on Fridays and Saturdays.
13. Door and front of house staff at the spiegel tent will encourage attendees to leave quietly at closing time each evening and will repeat this message during the full duration of any egress.
14. Door staff will encourage any audience members outside the spiegel tent doors to behave quietly.
15. No outdoor performance or use of an outdoor PA system will occur after 2300.
16. No outdoor work shall take place after 2200 on any day.
17. Public address systems will be sited to minimum noise disturbance to local residences.
18. Active measures such as notices, reminders by door staff and announcements at the end of performances will take place encouraging patrons to quietly leave the spiegel tent at the end of their visit.

Reasons for the Committee's Decision

Members of the Licensing Sub-Committee noted that there were no objections from responsible authorities and gave weight to the lack of objections especially from the Norfolk Constabulary and the council's own environmental health section. Councillors also appreciated the comments from Mr Shearman of the environmental health section as to the noise measurements which would occur which were likely to be taken at a point within a near residential dwelling and the controls which would then be imposed via a maximum noise level. Taking into account these noise mitigation measures and the efforts expected to be taken by those managing this event to encourage persons to leave quietly the councillors were of the view that there was insufficient reason to refuse the application as sought under any of the licensing objectives. Councillors took account also of its temporary nature when deciding whether the noise likely to be received by local residents would be unreasonable. Councillors were of the view that residential dwellings in this city centre location next door to a public park would likely receive some noise disturbance from events such as the Norfolk and Norwich Festival but the noise control measures including the limit set on decibels should ensure the noise received was not at an unreasonable level nor for an unreasonable period.

Right of 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 this decision or the imposition of any term, condition or restriction has a right of appeal to the Magistrates Court within 21 days of the date on which they are notified of this decision.

Dated this 3rd March 2014