



Notice of Determination

Date of Hearing: 22 May 2013

Licence Type: Grant of a Premises Licence

Name of Applicant: Envy Bar & Club Limited of 15 Prince of Wales Road, Norwich NR1 1BD

Name of Premises: Envy, 15 Prince of Wales Road, Norwich NR1 1BD

Licensing Sub-Committee:

Councillors Haynes (Chair), Barker and Button

Other Persons Present:

The Applicant was represented by Mr Brian Hardie, Birketts Solicitors, Mr Keith Curtis, the proposed Designated Premises Supervisor ("DPS") and Mr Tony Suwali, the Applicant's director. In attendance on behalf of the Norfolk Constabulary were Ms Michelle Bartram, PC Edward Brown and PC Darren Brooks. Other interested parties included Ms Jessica Goldfinch, Councillor Lesley Grahame and Councillor Ben Price.

Determination

Ian Streeter, the Licensing Manager, presented the Head of Citywide Services' report to the Licensing sub-committee ("the Report"). Mr Streeter advised that there had been ongoing discussions between the Applicant and the Norfolk Constabulary and Environmental Protection. Mr Streeter advised the sub-committee that applications under the Licensing Act 2003 have to be considered in accordance with that legislation and cannot be deferred on the basis that a Sexual Entertainment Venue ("SEV") licence for sexual entertainment may be required at a later date.

Members heard that the following conditions proposed by the Norfolk Constabulary have been accepted by the Applicant as set out below and are adopted as part of its operating schedule:-

1. There will be a minimum of 2 SIA door supervisors on the entrance to the premises and 1 SIA door supervisor inside to patrol inside the venue from 2200 hrs until close. There will be an additional 1 SIA door supervisor employed when each upper floor is open to the public and they will be deployed in those areas to monitor patrons.
2. The door supervisors will monitor the capacity using clickers.
3. There will be a door supervisor signing in/off book which will include date, full SIA badge number, tour of duty and times worked. This book will be kept on the premises and available for inspection by Police or Licensing Authority on request.
4. Toughened Glass will be used in place of regular glass.
5. A search Policy will be in place and the documents relating to this will be available for inspection on the premises by Police or Licensing Authority on request.

6. The Licensee or nominated person will be a member of the Norwich Licensing Forum and will attend at least 3 meetings per year.
7. Door supervisors situated on the front door to wear hi-visibility and bright fluorescent coloured outer clothing to be visible.
8. An Amnesty Safe is to be installed at the premises to allow confiscated fraudulent ID's and drugs to be deposited.
9. There shall be in place a code of conduct for the professional dancers. Each performer is to sign a copy of the code of conduct before being allowed to commence dancing at the premises. This code of conduct and signed copies will be kept on the premises and available to Police or Licensing Authority on request.
10. There shall be no physical contact between the customer and the dancer.
11. Dancers may never exchange any contact details including telephone numbers and email addresses with patrons.
12. All dancers/performers will be aged at least 18 years of age and legally entitled to work in the UK before they perform in the club. Files confirming this information to be retained on the premises and available to responsible authorities on request.
13. The premises will not display photographs or other images that may be construed as offensive.
14. There will be a no entry / re-entry to the premises 1 hour before the end of licensable activity of the sale by retail of alcohol except for those persons using the designated smoking area.

In addition members heard that following discussion with the Norfolk Constabulary the Applicant had agreed to amend its condition relating to CCTV in its operating schedule under the heading of "The prevention of crime and disorder" at paragraph 7 so that it reads as follows:

15. CCTV will be installed to cover all entrance, bars, dance areas and any external smoking area, maintained in good working order, and recordings will be kept for a minimum of 31 days for inspection by the Police or other responsible authority.

Members heard that Environmental Protection's representation had been withdrawn following the conditions proposed by them being accepted by the Applicant as set out below which the Applicant confirmed have been adopted as part of its operating schedule:-

16. Before any amplified music is played in the premises a sealed noise limiting device shall be installed and set in accordance with a scheme approved by the Council. Once set, the level of all amplified music played at the premises shall be controlled by this limiting device.
17. The ground floor rear door to the premises will be kept locked whilst the premises are open to the public.

The Applicant's case was presented by Mr Hardie. He advised that the premises would not trade as "Envy" as this name has been registered at Companies House by another company. A new trading name has not been determined but the legal identity of the Applicant remained the same. He said that his client had invested considerable money in refurbishing the premises and addressing issues which had undermined the promotion of the licensing objectives during previous uses of the premises. With regards to concerns from the Police over the proposed DPS, Mr Curtis, and his involvement of a neighbouring premises Mr Hardie advised that a new experienced DPS would shortly be appointed once the premises is open and that staff would receive extensive training including training on the sale of alcohol. Regarding concerns over the proposed opening hours up to 0400 Mr Hardie advised that this was in line with similar premises in the area and therefore would afford the premises with a level playing field commercially. Also if the proposed

opening hours were curtailed from 0400 this would undermine the licensing objectives in that it would encourage patrons to move between premises during these hours.

Discussion took place regarding refurbishment of the first floor and its potential future use as a lap dance club, the level and type of experience of Mr Curtis' replacement as DPS, the intended clientele for the premises and the types of events envisaged, the premises' temporary website, the Council's adoption of SEV legislation and the impact of that on premises providing sexual entertainment.

Ms Bartram and PC Brown presented the Constabulary's case. Although there had been issues with previous use of the premises the Constabulary recognised that the application before the sub-committee was from a new applicant. Concerns were raised over Mr Curtis' management of neighbouring premises and that although he had been co-operative with the Constabulary his management style was reactive rather than pro-active. The Constabulary were concerned that this premises will be run in a similar manner especially as the application proposed the premises be open until 0400 which is during the 0300 to 0600 period when the Police's analysis on crime and incident data within the night time economy has revealed is a period when there is a significant increase in crime.

Councillors Price and Grahame and Ms Goldfinch raised concerns over the proposed future use of the premises as a lap dance club and referred to research conducted by various councils and a police force in other areas of the country alleging a link between such premises and increases in crime and other negative factors on local residents and businesses.

The Sub-committee's decision:

The sub-committee granted the application subject to it being modified so that no DPS is specified and noting that Environmental Protection's concerns have been dealt with by inclusion of their proposed conditions and noting the conditions agreed with the Norfolk Constabulary detailed in Ms Bartram's letter to Mr Streeter dated 20 May 2013, both of which have been reproduced above.

The Sub-committee's reasons:

In determining the application with a view to promoting the licensing objectives under the Licensing Act 2003 ("the Act") the sub-committee had regard to and attached the appropriate weight to: the Act; the guidance issued under s.182 of the Act; the Council's own statement of licensing policy and the representations presented by all parties.

Members took account of the Police's concerns regards the adherence of conditions at a neighbouring premises at which Mr Curtis is also the DPS. The members noted that the operating schedule as amended following discussions with the Norfolk Constabulary and Environmental Protection contains a number of conditions.

Members, after considering all the representations received, both written and oral, were concerned by the Applicant's proposed DPS, Mr Curtis, in that he did not instil confidence in the sub-committee that the conditions will be adhered to and if so the promotion of the licensing objectives will be undermined.

The sub-committee noted the Police's request that the sub-committee curtail the opening hours to 0100 to be in line with the premises' current planning permission and so that the operator can demonstrate that the premises can be managed properly prior to any extension after this time. As the premises licence was granted without a specified DPS the premises will not be able to carry out the licensable activity of sale by retail of alcohol until

a DPS is appointed. Members considered that this modification to the application would address the Police's concerns over the premises management.

Members gave weight to the Applicant's submission that a number of premises in the area were open to 0400 and that if this premises had an earlier closing time then this disparity would encourage patrons to move from club to club which may undermine the promotion of the licensing objectives. The sub-committee noted that the licensing and planning regimes are separate and regarding section 9.41 of the current statutory guidance members noted that there had been no representations from the Planning Officer.

Members noted the concerns from the interested parties relating to all four of the licensing objectives, reference to various studies and a perception that the city had enough lap dancing premises. Commercial need is not a relevant consideration and the sub-committee attached little weight to the studies referred to as these did not relate to the premises or the local area. Asides from the representations from the Police and Environmental Protection there had been no representations from the other responsible authorities. The conditions agreed between the Applicant and Norfolk Constabulary and Environmental Protection were appropriate to promote the licensing objectives.

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

Dated this 23 May 2013