



NORWICH
City Council

Notice of Determination

Date of Hearing: Monday, 18th April 2016

Licence Type: Application for the Variation of a Premises Licence

Name of Applicant: Vitalija Janciuviene

Postal Address of Premises

(or description of premises): Café Istanbul, 128 Dereham Road, Norwich

Licensing Sub-Committee: 18th April – Councillor Button (Chair); Cllr Julie Brociek-Coulton and Cllr Henderson

Responsible Authorities Present - Norfolk Constabulary and Norwich City Council Environmental Services

Persons Present – Paul Byatt, Vitalija Janciuviene, Michelle Bartram, Lilie Ferrari, Robin Watson, Dan Grimmer, Cllr Denise Carlo, Hugo Malik and Richard Divey

Determination –

Mr Byatt the agent for the applicant presented the application for variation of an existing premises licence. He made the points that although the premises were licensed for the sale by retail of alcohol that activity was not actually carried out on the premises nor was it intended to be under the variation which was purely for the purposes of late night refreshment as defined by the Licensing Act 2003. Mr Byatt explained that the licensee and her husband were Muslims and that they did not intend to supply alcohol to their late night clientele who were predominantly members of Norwich's Kurdish and Arabic business community. The intention was to provide a facility for socialising in particular for the observance of fasting connected with Ramadan.

Michelle Bartram on behalf of Norwich Police raised concerns that the proposals for late night refreshment both inside and outside the premises may be affected by persons using Dereham Road late at night, returning from the city centre along that route. The Norfolk Constabulary were of the view that use up until 3am was

undesirable for the reasons set out in the letter of representation and would like to see late night refreshment with a finishing time earlier than that.

Richard Divey of Norwich Environmental Services made representations that there could be some noise and disturbance arising from the use of the premises both inside and out for a late night food service. In particular, if the food type was takeaway then that may serve to attract persons to the premises. It was suggested on behalf of the applicant that a condition restricting any food and drink purchased on the premises to be consumed on the premises after, say, 11 o'clock was acceptable to address that concern.

Ms Ferrari represented to the hearing that as a resident living right opposite the café she was concerned about noise and disturbance from the premises and from any friction with passers by in the early hours. She pointed out that the premises had an external sign saying "Kebabs" and this could mislead passers by into thinking it was being used as a takeaway food premises.

Cllr Carlo spoke on behalf of the Belvedere Centre. She raised concerns of noise and disturbance in the predominantly residential area and its affect upon the volunteer-led community centre.

Discussion ensued concerning smoking and parking which the Legal Adviser to the subcommittee advised were in both cases not matters within the remit of the subcommittee.

Decision of Licensing Sub-Committee

The application was granted in part. The variation permitting late night refreshment was granted from 2300 hours to 0130 hours each night for the internal part of the premises only. The opening hours of the premises were extended to 01.30 on each day to mirror the closing time for late night refreshment.

The committee imposed the following conditions:

1. The outside seating area is not to be used for consumption of food or drink served from the internal part of the premises during the late night refreshment hours.
2. All food served from the premises between 23.00 to 01.30 hours is to be consumed only on the premises and shall not be taken from the premises.
3. The external sign saying "Kebabs" is to be immediately removed and not replaced.
4. There will be no use of the external area of the premises after 23.00 and before 09.00 on any day.
5. Courtesy signs are to be installed within the premises with suitable wording warning customers to be considerate to nearby residents whilst using or leaving the licensed premises.

Reasons for Licensing Sub-Committee's Decision

The subcommittee considered carefully the evidence from the responsible authorities and the objectors. The committee accepted the evidence that Dereham Road was used as a thoroughfare in the early hours by persons leaving the city centre and moving westwards. The combination of this and late night refreshment from the outside seating part of the premises gave rise to significant concern on the part of members that the licensing objective of the prevention of public nuisance would not be promoted.

In relation to the use of the interior of the premises members felt that the application was acceptable in principle but in view of the concerns expressed by residents considered that a licence from 2300 hours to 0130 hours was appropriate to promote the licensing objective of the prevention of public nuisance.

In relation to the other conditions these appeared to the subcommittee appropriate to the acceptability of the use in terms of the licensing objectives.

Right of a Party to appeal against the decision of the Licensing Sub-committee

The rights of appeal are set out in Schedule 5 to the Licensing Act 2003. This appeal is to be made to a Magistrates Court within twenty one days of receiving written notification of this decision.

Dated this 21 April 2016