



NORWICH
City Council

NORWICH CITY COUNCIL

NOTICE OF DETERMINATION

Date of Hearing: 30 September 2021 at 10:15 am.

Application for the grant of a premises licence under the Licensing Act 2003

Address: 81 Park Lane, Norwich, NR2 3EL

Applicant: Samia King

Members of the Licensing Sub-Committee: Councillor Stutely (Chair), Councillor Ackroyd and Councillor Sands.

Other persons attending committee: Samia King (Applicant); Suhayla Bewley (Applicant's representative); Cllr Denise Carlo (Objector), Alison Carrier (Objector), Rachel Bennett (Licensing Officer), Norwich City Council; Sarah Moss, solicitor, nplaw; George Thompson (EDP)

DETERMINATION

1. There were no apologies for absence or declarations of interest.
2. The Chair established that all those present had received a copy of the licensing report and had had the opportunity to read this. The legal advisor ascertained that everyone present had been given a copy of more recently submitted documents (revised plan of the premises, statement of Samia King and further communication from the resident of 1 Maida Vale).
3. The Chair welcomed those present and invited the Applicant to present her application. On behalf of the Applicant, Ms Bewley stated that Ms King was already running a takeaway and café at the premises and the application related to the supply of alcohol on the premises only. Many of the objections concentrated on the existence of the business in the area and had little relevance to the application itself in terms of the supply of alcohol. It was suggested that supply of alcohol would have little impact on the licensing objectives and that any potential impact had already been addressed through the agreed police conditions.
4. Ms King explained that she had been trading at 81 Park Lane for ten days and the premises was being run as a falafel bar, selling vegan food. The plan submitted on 27 September 2021 accurately reflected the layout of the premises. She also ran a business on Lower Goats Lane and had

experienced few problems with this. The application was being made to allow people to enjoy a glass of wine with their meal in a relaxed atmosphere, indoors only. The premises was not a pub. Although the application was for the supply of alcohol up until 23.00 hours (Mon-Sat) and 20.00 hours on Sunday, this was to allow for flexibility for occasional events such as private showings of artwork and small private dining events in the basement. Currently the premises were being closed at 8pm and 4pm on a Sunday. In response to questioning from the Chair, Ms King confirmed that currently there were no events being planned due to covid considerations, however, she envisaged 1-2 private dining events and 1 artwork event being held a month in the future (by invitation only, thus limiting numbers). These could not be accommodated through Temporary Event Notices applications as she would exceed the annual limit. 12 persons could be seated in the basement, 9 in the ground floor dining room and 4 at a dining bar by the window in the retail area. It was intended that alcohol would be served with meals except for artwork events when it would be more appropriate to supply canapes due to the nature of the event. In response to questioning by Cllr Sands, Ms King confirmed there would be adequate, trained staff to prevent customers taking drinks off the premises.

5. Ms King stated that she had held a recent meeting for local residents, including those in Maida Vale, which she felt had gone well and at which she had been able to address concerns. She had no intention at all of upsetting residents and was committed to doing whatever she could to ease any concerns and work with local residents. Local people had commented on how pleased they were to have the premises in the area. She was seriously looking into installing ramps for disabled access, although this would not be straightforward, owing to issues with the building itself.
6. The Chair invited Alison Carrier to speak, who briefly stated her concerns around parking, takeaway queues and having to walk around bins located on the highway, which she believed were bins belonging to the Applicant's premises.
7. Cllr Carlo addressed the Committee regarding her concerns about the premises being located in a built-up residential area at the junction of five roads and any subsequent public safety issues if people were obstructed from using the pavement because of deliveries and parked cars. She accepted that the café was a valuable facility for the area and that as the part of the application referring to alcohol being consumed in the courtyard had been withdrawn, objections in relation to this were now irrelevant. In response to questioning from the Chair with regard to 'fights, drug-dealing and car vandalism' (page 56 of the report), Cllr Carlo confirmed that there had been issues with these matters with certain pubs in the area, but not specifically connected to 81 Park Lane.
8. To clarify the situation, the Chair confirmed that it would not be appropriate for the Committee to consider any objections where the content was not relevant to what was being sought under the application or was unrelated to one of the four licensing objectives. Consequently, it would not be appropriate to

consider objections related to the 81 Park Lane planning application or the building development across the road from Ms King's premises. Similarly, parking issues for residents and queuing for takeaway food were not considerations relevant to the application, as they were to do with the running of the business generally, rather than the application itself (supply of alcohol on the premises).

9. In response to questioning by Cllr Ackroyd as to how alcohol would be delivered to the premises, Ms King explained her intention to supply alcohol in the form of cans and bottled beer, rather than large kegs. Deliveries were made to the courtyard (suppliers all had a code to the gate) and the time spent in delivering products to the premises was likely to be short. There were double yellow lines outside the shop entrance.
10. To clarify the issue of bins, Ms King stated that she stored her premises' bins in the courtyard and only brought them onto the pavement on the refuse collection day once a week and returned them promptly to the courtyard. The tenants in the property above also had bins, but this was outside her responsibility and control. The premises' bins were not kept on the pavement.
11. Addressing the Committee about the potential public nuisance issue (noise) in the basement, raised by the occupant of 1 Maida Vale, Ms Bewley stated that no substantive evidence had been submitted in support of this contention (eg noise log/complaints to council/ expert noise report), other than a general assertion that there was likely to be noise nuisance because of the adjoining party wall. The basement abutted only a small section of 1 Maida Vale. The matter could not be explored further, owing to the occupant not being present at the hearing (although it was accepted that this may be due to the upcoming birth of the occupant's child). Further, 1 Maida Vale's noise nuisance objection had originally focused on the Applicant's proposal to supply alcohol for consumption in the outside courtyard, rather than issues with noise from the adjoining party wall, which had been presented very late in the day. Ms Bewley stated that she did not believe that the supply of alcohol would significantly impact on noise levels and a café business had previously operated on the same premises with no issues. The basement was intended to be used primarily for private dining. Although Ms Bewley accepted that this was hearsay and would be weighted accordingly by the Committee, she had spoken to the previous owner of the property who had been surprised at the objection as he had told her that he had held regular parties and gatherings in the basement and received no complaints. The Applicant had no intention whatsoever of causing any issues and if there was a genuine issue with noise, the Applicant would work with the neighbour to address this. However, some degree of give and take was to be expected within the neighbourhood.
12. The legal advisor discussed the contents of the Operating Schedule with the Applicant and Ms Bewley to clarify its content. Details of items removed or amended from the Operating Schedule are attached to this Notice. During the course of discussion, the following conditions were offered by the Applicant:

- *All staff will be trained in the basic law relating to the sale/supply of alcohol and a record of who has received this training will be kept at the premises and be available on request to the local authority*
- *No deliveries relating to licensable activities at the premises will take place between the hours of 7pm – 8am. A member of staff will be available during delivery to assist with the unloading of delivered items into the premises.*
- *No refuse receptacles will be moved between the premises and pavement between the hours of 8pm – 6am.*

DECISION OF THE LICENSING SUB-COMMITTEE

13. The Sub-Committee unanimously approved the application for the grant of the premises licence with the adoption of the conditions contained in the police letter to the licensing department dated 9 September 2021 and the conditions contained in paragraph 12 above.

REASONS FOR THE COMMITTEE'S DECISION

14. In coming to its decision, the Committee had regard to the Statutory Guidance published under S182 of the Licensing Act 2003, the written evidence provided, together with the evidence heard at Committee.
15. Weight was given to the fact that the local authority department responsible for environmental health functions, including noise, had not made any representation and that the Committee must therefore proceed on the basis that there were no concerns from this department regarding the proposals in terms of public nuisance. It was also noted that the police representation had been withdrawn following the Applicant's agreement to adopt the conditions proposed in the police letter to the licensing department dated 9 September 2021.
16. Having heard fully from the Applicant as to the proposed management and operation of the venue, Members were of the opinion that the Applicant was credible and although still in its early stages, the premises appeared to be well managed. Members had confidence in the Applicant that this would continue to be the case. The Committee was not of the view that granting the application would undermine the licensing objectives: the premises was not a pub, the number of people who could be accommodated within the premises was small and the intended purpose of allowing persons to enjoy a drink with a meal was not thought to give rise to any situation where the licensing objectives, particularly those of crime and disorder and public nuisance, would be undermined. Events requiring the premises to be open later than the usual 8pm (4pm on Sunday) were envisaged to be relatively low in number and the nature of the proposed

events (small dining parties and artwork showings) were unlikely, in the Members' view, to give rise to issues. The artwork events, the only event where alcohol was not intended to be served with a meal, would be limited in numbers (pre-bookings only) and the nature of the event and likely clientele were again, in the Members' opinion, unlikely to cause issues under the licensing objectives.

17. Members were of the opinion that sensible controls had been put in place to uphold and promote the licensing objectives, both through the originally proposed Operating Schedule and the conditions offered by the Applicant at the hearing. The Applicant had taken the opportunity prior to the hearing and at the hearing itself to address issues raised by neighbouring residents, which showed a commitment and willingness to work with the community.
18. Members were of the opinion that a large number of objections submitted addressed concerns with the business itself, rather than issues directly relating to the application itself (ie the supply of alcohol on the premises) and it was inappropriate to consider issues not relevant to what was being sought under the application or unrelated to one of the four licensing objectives. Consequently it would not be appropriate for the Committee to take into account, for example, objections related to the 81 Park Lane planning application, the building development across the road from the premises, parking issues for residents, general litter issues, concerns as to parking on pavements, bins located on highways, or queuing for food outside the premises (the application did not seek supply of alcohol for consumption off the premises, so there was also no need to consider queuing for takeaway alcohol) as these were not considerations relevant to what was being sought under the application. In addition, many of these matters were adequately covered by other legislation and were matters of personal responsibility, which the Committee should not try to duplicate. The Applicant had withdrawn that part of the application relating to off-sales consumption of alcohol, meaning that objections relating to that element of the application were also not relevant.
19. With regard to the objection raised by the occupier of 1 Maida Vale, Members were of the opinion that insufficient evidence had been submitted to suggest that the licensing objective of public nuisance would be undermined if the application were granted. No weight was given to the objector's non-attendance at the hearing, as this was likely due to matters outside her control. However, little evidence had been provided regarding potential noise being transmitted through the party wall and it was noted that the original representation had barely mentioned the issue. Consequently, on balance, there was insufficient evidence to justify the application being turned down on this basis and Members noted that they should not refuse an application for speculative reasons. No weight had been given to the hearsay evidence put forward by the Applicant's representative. It was also noted that a review system is available: any person believing that a premises is not being run according to the four licensing objectives is able to make a representation to the Council on this basis and request that the premises licence be reviewed.

RIGHT OF A PARTY TO APPEAL AGAINST THE DECISION OF THE LICENSING SUB-COMMITTEE

Any person who has submitted a relevant representation may appeal this decision at the Magistrates Court within 21 days of the date on which they are notified in writing of this decision in accordance with the following appeal provisions under Schedule 5 of the Licensing Act 2003: –

- (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,

they may appeal against the decision.

Dated 06 October 2021



Signed: (Chair, Licensing Sub-Committee)

OPERATING SCHEDULE AMENDMENTS

81 Park Lane, Norwich

1. Reference to 'retail unit' throughout the operating schedule to be replaced by 'premises'
2. The following amendments to be made to the first paragraph of the operating schedule (steps to promote all four licensing objectives):
 - i. **Replace** 'Designated premises supervisor confirmed it is obligated to be in day-to-day control of the premises, to provide good training for staff on the Licensing Act (Training Record), to make or authorize each sale' **with** '*Designated premises supervisor confirmed it is obligated to be in day-to-day control of the premises. All staff will be trained in the basic law relating to the sale/supply of alcohol and a record of who has received this training will be kept at the premises and be available on request to the local authority.*'
 - ii. **Remove** 'CCTV system installed with recording option available. Roller metal exterior window shutter will be fixed to ensure that shop front is safe and secure at all times.'
3. The following amendments to be made to the second paragraph of the operating schedule (The prevention of crime and disorder):
 - i. **Remove** 'CCTV System installed to monitor entrances, exits, and other parts of the premises in order to address the prevention of the objective' **and replace with** '*CCTV Cameras to cover the main public areas of the premises including entrances, exits and immediate vicinity. CCTV footage to record for a minimum of 28 days and be available to Police or Licensing Authority on request*'
 - ii. **Replace** 'Staff will be well trained in asking customers to use premises in an orderly and respectful manner and prevent drinking alcohol at the retail unit (ex. canned or bottled beer)' **with** '*Staff will be well trained in asking customers to use premises in an orderly and respectful manner.*'
4. The following amendment to be made to the third paragraph of the operating schedule (public safety):
 - i. **Replace** 'A log book or recording system shall be kept..' **with** '*A log book shall be kept...*'

5. The following amendment to be made to the fourth paragraph of the operating schedule (The prevention of public nuisance):

- i. **Replace** 'Deliveries of goods necessary for the operation of the business will be carried out at such a time or in such a manner as to prevent nuisance and disturbance to nearby residents' **with** '*No deliveries relating to licensable activities at the premises will take place between the hours of 7pm – 8am. A member of staff will be available during delivery to assist with the unloading of delivered items into the premises.*'
- ii. **Replace** 'The Licensee will ensure that staff who arrive early morning or depart late at night (ex. for unpacking, pricing newly delivered goods) when the business has ceased trading conduct themselves in such a manner to avoid causing disturbance to nearby residents' **with** '*The Licensee will ensure that staff who arrive early morning or depart late at night (for example for unpacking goods) when the business has ceased trading conduct themselves in such a manner to avoid causing disturbance to nearby residents*'
- iii. **Replace** 'Customers will not be admitted to premises above opening hours' **with** '*Customers will not be admitted to premises outside opening hours*'
- iv. **Replace** 'The movement of bins and rubbish outside the premises will be kept to a minimum after 11.00pm' **with** '*No refuse receptacles will be moved between the premises and pavement between the hours of 8pm – 6am*'
- v. **Remove** 'Adequate waste receptacles for use by customers will be provided in the local vicinity'

6. The following amendment to be made to the fifth paragraph of the operating schedule (The protection of children from harm):

- i. **Remove** 'All the details provided in Training Record Book available the retail unit, Log Book will be kept upon the premises all the time. Nothing belong existing Health & Safety requirements'