



NOTICE OF DETERMINATION

Date of Hearing: 31 July 2013

Licence Type: Grant of a premises licence

Name of Premises:

Postal address of Premises: 2-4 St Benedict Street, Norwich NR2 4AG

Licensing Sub-Committee: Councillors Gayton (chair) Henderson and Thomas

Other persons present: Eleanor Smithers and Deborah Farman for Flathouse Ltd,
Daniel Bramham, local resident

On behalf of Norwich City Council: Ian Streeter (Licensing Manager), David Lowens (legal
adviser to the committee) solicitor (nplaw)

DETERMINATION:

Prior to the determination of the committee the applicant amended its application as follows:

1. The proposed hours for the provision of live music were amended to 18.00 to 23.30 Monday to Friday, 09.00 to 23.30 on Saturday and 10.00 to 23.00 on Sunday.
2. The proposed hours for the provision of recorded music were amended to: Monday to Saturday 09.00 to 23.30 hrs and on Sunday 10.00 to 23.00 hrs.
3. The hours proposed for the supply of alcohol for consumption on the premises were amended to Monday to Saturday 11.00 to 23.00, Sunday 11.00 to 22.30 hrs. There were no changes made to non-standard timings.
4. The opening hours requested were amended to 09.00 to 23.30 hrs Monday to Saturday, with no change to the proposed Sunday hours of 10.00 to 23.00.

In addition members of committee heard that the proposed additional conditions put forward by the Norfolk Constabulary had been accepted and were included in the proposed operating schedule:

1. CCTV will be in operation covering the main public areas and any outside seating area. This system will record for a minimum of 28 days and footage will be available to police or licensing authority on request;

2. A record of staff training in relation to the Licensing Act 2003 will be kept on the premises and be available to the police and to the licensing authority upon request;
3. A refusals book to log all refused sales due to intoxication or the person being under age will be kept on the premises and be available to the police and the licensing authority upon request;
4. An incident book will be kept on the premises to log incidents of disorderly behaviour; this book will be available to the police and to the licensing authority upon request;
5. Patrons will be prevented from taking open drinking vessels off the premises.

Members of the committee heard from the applicant regarding what was intended which was to sell alcohol as part of the food business and the intention was to have the ability to provide customers with wine or beer with their meal. The applicant confirmed there was no external seating area at present and persons who wished to smoke would need to leave the premises to do so and would be directed to St Gregory's Alley. It was intended to provide live music on an occasional basis.

Mr Bramham studied the conditions attached to planning permission 13/00163/U and then addressed committee regarding his concerns as to public nuisance occurring to residents. His premises were very close to the premises and his bedroom overlooked the alley with his kitchen and living room overlooking St Benedict's Street. He was concerned regarding noise nuisance from staff leaving the premises and from late use of refuse bins. He confirmed his bedroom was on the first floor.

Councillors heard that the alleyway, name unknown, was as far as the applicant was aware a public highway but not adopted. The applicant answered questions from Mr Bramham regarding use of the door onto the alleyway and the applicant mentioned that in their view the majority of customers would exit the premises in the other direction taking them away from this alleyway. Mr Streeter and Mr Bramham assisted the committee regarding the closing hours of other local businesses, noting that the Lounge was open beyond midnight (but rarely so in the week) and open later at the week-end.

The applicant further amended their operating schedule to include the following conditions:

1. There will be no transfer of bottles to any refuse container after 22.30 hrs.
2. No food orders will be taken after 22.30 hrs.

The Committee's Decision

The application as amended was granted with the additional conditions noted above together with the following imposed conditions:

1. There will be no provision of live music or provision of recorded music until the amplification system and any soundproofing measures as agreed under the conditions attached to planning permission 13/00163/U have been installed and

thereafter the agreed permitted maximum noise levels shall not be exceeded at any time.

2. No amplified music shall be played in the premises other than through the permanently installed amplification system as agreed under condition 7 of Planning Permission 13/00163/U and no alteration of this system shall take place without the prior written agreement of the Norwich City Council.

The Sub-Committee's Reasons

Councillors took account of the fact that there were no responsible authority objections to the application and noted that those conditions proposed by the Norfolk Constabulary had been agreed. The committee viewed the proposed hours as reasonable in the context of the area of the premises and noted that the proposed amendment of the opening hours and those hours for the provision of live and recorded music took account of the interests of those living in the area, as did the additional conditions regarding the taking of last food orders and the placing of bottles in refuse containers. Whilst there were concerns regarding the possibility of noise nuisance being caused from amplified live and recorded music the conditions imposed by the planning permission dated 26 April 2013 for the change of use of the premises from a shop to a restaurant café and which were supported by the imposed conditions placed on the premises licence should be sufficient to prevent public nuisance arising from the playing of amplified live and recorded music. There was insufficient evidence to justify any further restriction or additional condition. The hours sought were acceptable.

The committee noted and advised those present of the review procedure.

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 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 31st July 2013