



NORWICH
City Council

Notice of Determination

Date of Hearing: 2 November 2020

Licence Type: Application for a Premises Licence

Name of Applicant: After Dark Promotions Ltd, company no. 11881533

Postal Address of Premises: Junkyard Market, St Marys Works Car Park,
St Marys Plain, Norwich.

Licensing Sub-Committee members present:

Councillors Stutely (Chair), Huntley and Youssef.

Other Persons Present:

Rachel Bennett, Licensing Advisor, NCC
Gavin Tempest, Licensing Consultant, for the applicant company
Michael Femi-Ola, Managing Director of the applicant company
Alex Russell-Davis, member of the public
Cllr Martin Schmierer
Rob Mack – applicant's DPS
Sandra Olive, member of the public
Toby Westgarth, Norwich Market Traders.
David Lowens, solicitor, Norfolk County Council (nplaw).

Further papers in addition to those on the agenda, from the applicant company, had been circulated before the meeting.

There were no apologies for absence, and no declarations of interest were made.

Summary notes of hearing:

The Chair explained the procedure for this remotely held committee and those taking part were introduced.

Rachel Bennett presented the report, noting the application was for the supply of alcohol for consumption on the premises only, for the hours 12:00 to 22:00. Reference was made to the conditions proposed by the police, contained in the agenda, which had been agreed by the applicant company.

Gavin Tempest, Michael Femi-Ola and Rob Mack addressed committee. Mr Femi-Ola mentioned the company's licensing experience at the Norfolk Showground. The photographs recently provided were referred to, to give councillors a realistic view of the use of the site.

Mr Femi-Ola mentioned that the premises had been running under TEN's without anti-social behaviour taking place. The premises were risk assessed.

Mr Tempest mentioned the crime figures which had been recently provided, which covered all but one of the weekends when the premises had been open. There had been no increase in reported crime or anti-social behaviour whilst the Junkyard had been in operation. It was felt that the conditions proposed would ensure compliance with the four licensing objectives.

Mr Russell-Davis, a resident of Muspole Street, mentioned that the presentation by Mr Tempest did not match his experience. He had been complaining of the level of noise since August 16th and requesting an enhanced level of signage. He had been told that signage had been actioned when it had not been and had needed to involve his local councillor. The level of noise from patrons departing the site is a major issue, together with littering and public urination. He felt that the premises management were failing to properly and safely manage queues due to insufficient staff and a lack of social distancing markers outside the site. He had seen alcohol and food taken off the site.

Ms Sandra Olive mentioned that she had lived in the area for seven years and was suffering anti-social behaviour from the patrons of the Junkyard. Milk had been stolen, she had needed to clear up beer cans and persons had been loitering outside her premises using the courtyard as a pub garden. She had not objected whilst events were going on over the summer, thinking this was a temporary use only. She worked in a hospital, was very aware of covid risks and felt that the business was creating a feeling of insecurity in her own property.

Michael Femi-Ola responded, noting that Mr Russell-Davis' correspondence was not sent to the company thus introducing a delay. Mr Femi-Ola mentioned that many signs had been produced, including some to attempt to manage the queueing system. Customers were warned not to take away alcohol via warnings over the public address system and marshalls were present on the door when persons were leaving the site to try to ensure that persons were not taking alcohol off site. Bins were available for the discarding of food and alcohol before leaving the site. The premises did not sell cans of beer. Problems may have arisen from the patrons of other premises in the city centre. He felt that it was practically impossible to carry drink as sold in the Junkyard off site.

Mr Femi-Ola responded to a question on future plans to control queueing, mentioning that the applicant company was investigating the placing of staggered queues inside the site with staff tasked with ensuring covid safe distancing. It was also intended to have taxis collect and drop off customers within the site.

Ms Olive noted that previously to the Junkyard operating disturbance was never an issue and wondered whether customers were taking drinks into the venue. The

business had a measurable impact on her and she was still concerned after hearing from the applicant.

Mr Westgarth mentioned his concerns over the lack of published capacity figures and he noted that the area where internal queues would be marshalled would have persons occupying a car parking area. He questioned whether ID was checked in advance or after drinks were served, believed there needed to be appropriate conditions regarding SIA staff and wondered whether the premises would be allowed live music.

Rob Mack noted that the business operated Challenge 25, that persons who looked below that age were checked on entry and provided with a wristband to confirm that they were of legal age to order alcohol and that whilst there was digital ordering there was a further age check by staff on delivery of ordered drinks to the table. The business was primarily food based and the majority of clientele were aged in their 30's. He confirmed the business had an incident book. Approximately 250 members of the public had been challenged.

Councillor Schmierer mentioned that local residents had indicated to him problems regarding anti-social behaviour, street drinking and public nuisance. He felt more could be done to mitigate problems, for example via CCTV. There was fallout after the close at 10pm going on to 11pm. Mancroft ward suffered from high levels of public order offences.

Cllr Schmierer noted the expectation in the licensing policy that applicants would address the four licensing objectives in their application and demonstrate how they would be good neighbours. He'd been told of nuisance from food smells and wondered whether enough had been done regarding persons leaving the site.

Mr Tempest mentioned that the site was limited in capacity, due to table occupation numbers and social distancing and there should not be concern regarding a great increase in capacity. CCTV was not felt appropriate, the business used table service and was a family event. Persons monitoring queues could carry out this role without straying into conflict resolution and did not need to be SIA qualified. The business had not added to crime and disorder problems in the area.

Regarding smell nuisance Mr Femi-Ola mentioned that a lot of the cooking took place elsewhere and he struggled to see how odour issues were a strong concern. The smell of food within the site was not significant.

Mr Tempest mentioned that a Fire Risk Assessment had been carried out and that the car park was in the same ownership as the premises. There simply was not the space to go to a capacity of 5000.

Mr Femi-Ola felt the maximum capacity to be between 450 and 550 persons. He felt that the maximum leaving at one time was likely to be between 50 and 100 persons and that the premises would provide covid marshals to ensure social distancing.

Cllr Huntley asked about control of anti-social behaviour.

Mr R Mack noted the signage on the exits, and that the PA system could be used to encourage patrons to use the on-site facilities before leaving. It was intended to have the taxi rank within the site, as previously mentioned.

Cllr Youssef noted that in respect of the queueing system she had visited in the last week of September. No social distancing was taking place, the staff looking after the queue did not patrol the queue and were not enforcing social distancing requirements. Mr Femi-Ola noted these concerns and the premises would look to ensure that staff had clear roles regarding what was expected from them and further training.

Mr Russell-Davis mentioned his concern about the hours applied for and wished to see a discussion about reducing the hours. Cllr Schmierer wondered whether it was appropriate to grant the licence for all the days applied for and was concerned that there had been insufficient answers given regarding noise and odours.

Mr Tempest summed up the case for the applicant company and noted the lack of representations from responsible authorities, that in respect of litter the applicant was happy to carry out a litter pick, that staff would be on hand to ensure patrons left in a safe manner and that there would be expanded notices placed requiring persons to leave in a safe manner.

In response to a request from the Chair as to what additional matters had been offered by the applicant company during the committee hearing it was agreed that the following matters had been offered:

1. The queue of patrons wishing to enter the site would be staggered and placed so far as possible within the site
2. There would be a taxi collection and drop off point within the site.
3. No cans containing alcohol would be sold on site.
4. A litter pick will be carried out at the close of business to gather litter within the vicinity of the site.

Committee then considered matters in private session.

The Committee's decision:

The application was approved.

An additional condition was imposed:

Staff will be provided in sufficient numbers and with the responsibility to ensure that: 1. social distancing of persons waiting in the queue is maintained, both internal and external to the site; 2. Alcohol is not taken from the premises; and 3. Customers leaving the premises do not loiter in the immediate vicinity of the premises causing noise nuisance to local residents.

The Norfolk Constabulary condition relating to a written risk assessment was amended to insert after the first sentence "The recommendations of this risk assessment in respect of SIA security staff will be followed".

The Committee's reasons:

In coming to their decision, the committee had had due regard to the statutory guidance under Section 182 of the Licensing Act 2003 and the council's own statement of licensing policy. Committee has not taken account of matters which were not relevant to the licensing objectives.

Committee noted that the application covered on-sales only.

Councillors gave weight to the lack of representations from the Norfolk Constabulary and the environmental protection team, relevant regarding expected compliance with the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance.

Evidence regarding odour nuisance was limited and committee finds that any such nuisance as may exist is more appropriately dealt with under the Environmental Protection Act 1990.

Noting the evidence heard from attendees and the matters recorded on the representations received it is clear that there are problems of antisocial behaviour and nuisance arising in the area in which these premises are located, which concern local residents and which a resident noted as arising since the premises was open and trading. Comments regarding cans, not sold at the premises, does indicate that not all matters complained of are likely to have arisen from the patrons of these premises but it is more likely than not that some behaviour causing nuisance does involve patrons of the Junkyard.

The committee is obliged to take account of s182 statutory guidance, and notes that the behaviour of individuals once outside the control of the premises licence holder is a matter for personal responsibility of the individual concerned. It would not be reasonable to expect the premises licence holder to control behaviour taking place outside the immediate vicinity of the premises and thus outside their control.

The committee finds that the conditions as presented by the applicant and as imposed are appropriate to promote the licensing objectives and deal with antisocial behaviour and public safety so far as the matters are within the control of the applicant and to a reasonable extent. Age controls are sufficiently thorough.

Committee notes the existence of the review procedure and that all licenses can be subject to review where evidence is presented that justifies it.

Right of a Party to appeal against the determination of the Authority

Rights of appeal are set out in Schedule 5 of the Licensing Act 2003 and reference should be made to that schedule but in summary applicants and any person who has submitted a relevant representation, who is aggrieved by the decision, or the imposition of any term, 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. Any such appeal should be raised directly with the Magistrates Court.

Signed

A handwritten signature in black ink, appearing to be 'Cllr Stutely', written in a cursive style.

Cllr Stutely, Chair, Norwich City Council Licensing Sub-Committee.

Dated this 25 day of November 2020