



NORWICH City Council

Notice of Determination

Date of Hearing: Wednesday 16 October 2013

Licence Type: Application for a variation of a Premises Licence

Name of Applicant: Henacraft Limited 6 Horner Close, Norwich NR2 2LY

Name of Premises: 52 Prince of Wales Road, Norwich NR1 1LL

Licensing Sub-Committee (“the Committee”):

Councillors Wright (Chair), Button and Maxwell

Council Officer:

Ian Streeter – Licensing Manager (Norwich City Council)
Luke Parker – Legal advisor to the Committee (Solicitor, nplaw)
Roselyn Thompson (Trainee Solicitor, nplaw)

On behalf of the applicant:

Gursel Uslu - Applicant’s representative (Director & DPS)
Petrit Vladi - Applicant’s representative (Mr Uslu’s business partner)
Robert Pyke – Applicant’s legal representative (Fosters solicitors)

Responsible Authorities

PC Richard Spinks
PC Sue Nash

Other Persons Present

Councillor Henderson on behalf Councillor Price

Determination:

Ian Streeter, the Council’s Licensing Manager, distributed copies of documents provided by the Police relating to the public order zones in the city and which formed part of their representations. As per paragraph 9 of the agenda Mr Streeter circulated a site map of the area identifying the application premises in relation to the relevant representation parties addresses.

Mr Streeter then presented the Head of Citywide Services' report to the Committee ("the Report"). He highlighted to the Committee that the applicant had agreed additional conditions with the council's environmental protection team, as detailed at paragraph 6 of the agenda, and that the applicant had amended their operating schedule accordingly. Mr Streeter reminded the Committee that the planning regime was separate from the licensing regime but they may be issues which cross over and where these relate to the four licensing objectives the Committee should have due regard to them.

The Committee heard from the Applicant's representative, Mr Pyke. He outlined the history of the premises and Mr Uslu's qualifications and experience in the hospitality sector. The applicant plans to operate the premises as a champagne bar aimed at older clientele. He said with regard to the hours of the licensable activities applied for the applicant wanted to compete with neighbouring premises on a level playing field. Also if the hours for the sale by retail of alcohol are limited to 02:00 as requested by the Police then the premises clientele are likely to leave seeking to continue their evening elsewhere however may be frustrated if they unable to be admitted to neighbouring premises which may well be full at that hour. Such an earlier terminal hour may rather than decrease the risk of crime and disorder as submitted by the Police actually have the opposite effect. Mr Pyke referred the Committee to pages 20 to 21 of the agenda which listed the additional steps that applicant intends to take to promote the licensing objectives as a result of the proposed variation.

Mr Streeter interjected to advise that the wording of condition (d) 2 was inappropriate and should be amended to read as follows:

"Noise levels from amplified music shall not exceed 45db at 63Hz C.B.F., 40db at 125Hz C.B.F. and NR30 over the frequency range from 250Hz to 8KHz as measured at position 1 metre outside any noise sensitive premises and shall not exceed 37db at 63Hz C.B.F., 30db at 125Hz C.B.F. and NR20 over the frequency range from 250Hz to 8Kz as measured inside any adjoining noise sensitive premises."

The applicant agreed that the condition should be reworded as proposed by Mr Streeter and so the applicant amended their operating schedule accordingly.

Mr Pyke advised that under its previous use the premises had not had any doormen. The conditions proposed by the Police were acceptable to the applicant only if the Committee allowed a terminal hour for the sale by retail of alcohol of 03:45.

Members then asked the applicant questions concerning: the planning and trading history of the premises; the type of clientele the applicant wished to attract to the premises; its Challenge 25 policy; the maximum capacity of the premises; who the proposed DPS was; the level of soundproofing works to be undertaken at the premises and whether they would be completed before the premises commenced trading.

A member asked the applicant why he wanted to operate the premises as a champagne bar and if he wanted to attract older clientele why he needed to sell alcohol to such a late hour? Mr Pyke responded by saying that a lot of premises are open until 02:00 however people nowadays tend to go out later in the evening. If the applicant also has to close at 02:00 they will leave and be beyond the applicant's

control. If they want to continue their night but are unable to gain admittance to neighbouring premises then they may become frustrated which may increase the risk of crime and disorder.

The Police then asked the applicant questions concerning: what drinks were to be stocked in the premises and the pricing structure; what experience the applicant had of operating a late night bar in the area; the applicant's reasoning for only agreeing to the Police's proposed conditions if the terminal hour for the sale of alcohol is kept at 03:45 as applied for.

The Police then presented their case which in summary was that an additional late night licence would have a detrimental impact on crime in the area. In support of their case the Police referred to a map of the City's public order zones and the incidence of recorded crime within those zones between 01/09/2012 to 31/08/2013. The Police highlighted to the Committee that the premises lay within Zone 2 which had the highest incidence of recorded crime. Members and the applicant posed questions to the Police on their presentation. This included a question from a member asking what effect would customers leaving at 02:00 rather than 04:00 have on the area? The Police officer advised that not all the premises closed at 04:00 and that if premises close at different times then there is a gradual dispersal of patrons onto the street which results in less crime. If premises close earlier then there less alcohol consumed and the queues for food and taxis are not so long.

Councillor Henderson spoke on behalf of Councillor Price who was unable to appear before the Committee. In summary she said that there was a correlation between the extended drinking hours and anti-social behaviour.

By way of a closing statement Mr Pyke said that his client wants to run a safe bar and does not want to bring detriment to the area. His client does not think that extending the hours would adversely affect the area and in fact the presence of doormen at the premises would actually benefit the area.

The Committee's decision:

The Committee granted the variation application as amended to the extent that:

- Condition 2 of Annex 2 of the original premises licence (attached at appendix A of the agenda), which reads "Sales of alcohol shall only be made to those people using the seated restaurant and function room, i.e. not those using only the takeaway facilities" be removed;
- The layout plan of the premises be amended as per the plan attached at appendix B of the agenda;
- The conditions in boxes "b" to "e" of section M of the operating schedule (attached at appendix C of the agenda) be included subject to the wording of condition (d) 2 being amended to read as follows:

"Noise levels from amplified music shall not exceed 45db at 63Hz C.B.F., 40db at 125Hz C.B.F. and NR30 over the frequency range from 250Hz to

8KHz as measured at position 1 metre outside any noise sensitive premises and shall not exceed 37db at 63Hz C.B.F., 30db at 125Hz C.B.F. and NR20 over the frequency range from 250Hz to 8Kz as measured inside any adjoining noise sensitive premises.”

And subject to the additional conditions agreed with the Council's environmental protection team, namely:

1. The licence holder shall not display, or allow the display of any advertisement promoting any event or providing entertainment held at the premises, in particular, unless the license holder has complied with paragraph 1.2

- 1.1 no display of advertisement(s) shall take place on any;

- 1.1.1 structure placed on, over, in or adjacent to the highway;

- 1.1.2 public or privately owned premises or land;

- 1.1.3 street furniture including litter bins, seating etc;

- 1.2 there shall be no display of advertisements unless the licence holder has first obtained written consent from;

- 1.2.1 the owner of the structure, or premises or land, or street furniture and;

- 1.2.2 the local planning authority which has granted advertisement consent for the advertisement(s) and;

- 1.2.3 the highways authority (if applicable);

- 1.2.4 Copies of all relevant consents shall be provided to the licensing authority within 14 days from the date when the request was made by the licensing authority.

- 1.3 The licence holder shall take all reasonable precautions and exercise all due diligence to ensure that no person promoting or providing entertainment on the premises, nor any person acting on behalf of any such person, shall display in an unlawful manner advertisement(s) promoting or providing entertainment on the premises. In particular; the licence holder will ensure any persons booking, promoting or otherwise providing entertainment on the premises will;

- 1.3.1 sign and date a disclaimer which will state the following;

The display of advertisement(s) such as fly posters is an offence under section 224 of the Town and Country Planning Act 1990 (as amended), if the advertisement(s) do not have express consent from the local planning authority, or if the advertisement(s) are excluded by Schedule 1 of the Town and Country Planning (Control of Advertisement) Regulations 2007. Each advertisement is considered a separate offence; the maximum fine for each offence on conviction is £2,500.

As responsible licensed premises, we do not tolerate any unlawful advertisement(s) by person promoting or providing entertainment on our premises.

We will assist fully with any investigation relating to incidences concerning the unlawful display of advertisement(s) including fly posters, banner advertisement(s) etc. We will provide to Norwich City Council, who are the licensing authority a copy of this signed and dated disclaimer and your full contact details on request.

1.3.2 provide their full name and date of birth of any person(s) promoting or providing entertainment on the premises;

1.3.3 provide the name of their business (if applicable);

1.3.4 provide their full business or residential postal address;

1.3.5 provide their contact telephone number

1.3.6 The licence holder will ensure that all contact details have been verified by asking for and retaining a photocopy of any appropriate proof of identification such as a current passport, driver's licence or any other appropriate document that will provide proof of identity to the licensing authority's satisfaction.

1.3.7 If the contact information retained by the licence holder does not meet the criteria set out in 1.3.2 to 1.3.7 i.e the details are incomplete or have not been confirmed by verifying the details of the person booking, promoting or otherwise providing entertainment on the premises the licence holder shall be in breach of these conditions.

1.3.8 The licence holder will retain contact details for a period of not less than 3 months from the date of the advertised event or entertainment. All contact details will be provided to the licensing authority within 7 days of any request made to the licence holder.

1.4 The licensing authority may require the licence holder to remove any unlawfully displayed advertisement (s) within 2 days of the date of notification. Failure to remove any unlawfully displayed advertisement(s) in accordance with such a request shall be in breach of these conditions.

1.5 The failure by a licence holder to remove any unlawfully displayed advertisement(s) will result in the licensing authority removing such unlawful advertisements. Any costs incurred by the licensing authority in removing such unlawful advertisements shall be recoverable from the licence holder as a debt.

2. Except for access and egress, all doors and windows of the licensed

premises will remain closed whenever regulated entertainment is provided.

3. The outside area to the rear of the premises shall not be open to or used by the public or customers, other than for use in the case of an emergency for example, in case of fire.

Amendment to existing offered operating schedule

Entry 1 in section d) The prevention of public nuisance of the variation operating schedule amended to read:-

“Empty bottles and other waste must be stored in a lidded skip within the curtilage of the premises prior to collection. Operationally the waste must be removed from the public area on a frequent basis and transferred to the skip. Transfer to an external skip or other waste receptacle will not be undertaken between the hours of 21:00 and 08:00 on any day.”

And subject to and the conditions proposed by the Police in their letter of 09.09.2013, namely that:

- A record of staff training in relation to the sale of alcohol will be kept on the premises and available to Police or Licensing Authority on request.
- CCTV camera will cover entrances, all bars, dance areas and any external smoking area and will be maintained in good working order.
- No patrons shall be allowed to leave the premises whilst in possession of any drinking vessel or open glass bottle.
- 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 22.00 hours until close on Thursday, Friday and Saturday nights and Sundays before Bank Holidays. There will be a minimum of 2 SIA door supervisors employed from 22.00 hours until close on all other nights.
- The door supervisors will monitor the capacity using clickers.
- 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.
- Toughened Glass will be used in place of regular glass.
- A search Policy will be in place and documents relating to this will be available for inspection on the premises.
- Door Supervisors situated on the front door to wear hi-visibility and bright fluorescent coloured out clothing to be visible.

- There will be no entry/re-entry to the premises 1 hour before the end of licensable activity of the sale of alcohol except for those using the designated smoking area.
- A refusal book will be kept behind the bar to record all refused entries due to underage or intoxicated. This book will be kept on the premises and available to Police on request.
- An incident book will be provided and available for inspection by Police or Licensing Authority on request.
- An "Alert" radio system will be operated by the premises under Project 150 Scheme and subscription charges will be payable for the duration of the Project 150 Scheme. This condition is only enforceable whilst the reduced cost structure of Project 150 continues.

In addition the terminal hour for the licensable activity of the sale by retail of alcohol (for consumption on the premises only) being limited from 10:00 to 03:00.

The Committee's reasons:

The Committee were persuaded by the representations from the Police that the application as sought would undermine the licensing objective of the prevention of crime and disorder without the incorporation of their proposed conditions. However the Committee were not persuaded that it was appropriate for the terminal hour for the sale of alcohol to be limited to 02:00. The Committee noted that the Police had advised that some of the neighbouring premises were licensed to 02:00 and therefore the Committee considered that a later terminal hour of 03:00 would assist with the dispersal of customers leaving the area.

With regards to the licensing objective of the prevention of public nuisance the Committee noted that following the applicant agreeing additional conditions with the environmental protection team, they had no representations. Members considered that the written representations from the planning officer largely concerned planning issues and in the absence of a planning officer appearing before them, members attached the appropriate weight to the written representations. In the context of the area of the premises there was insufficient evidence to justify any further restriction or additional condition relating to this licensing objective.

With regards to the remaining licensing objectives, namely public safety and the protection of children from harm, there was insufficient evidence before the Committee to show that the promotion of these objectives would be undermined if the application, subject to the conditions detailed above, was granted. Members took account of the fact that there were no representations from the responsible authorities other than those mentioned previously.

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, 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 24 October 2013