



NORWICH City Council

Notice of Determination

Date of Hearing: Tuesday 11th September 2012

Licence Type: Review of a Premises Licence

Name of Applicants: Janet Wilkinson of 33 Portersfield Road, Norwich NR3 3JT; and
Kevin Lee of 40 Warwick Street, Norwich NR2 3LD

Name of Premises: Mr Pizza

Name of Premises Licence holder: Mr Bilal Gilgil of 47 Portersfield Road, Norwich NR2 3JU

Postal Address of Premises (or description of premises):

47 Portersfield Road, Norwich, NR2 3JU

Licensing Sub-Committee:

Councillors Wright (Chair), Stammers and Price (substitute for Councillor Henderson)

List of Public Attending Committee

Janet Wilkinson and Kevin Lee (Applicants)
Mehmet Gilgil, Tomer Kaya (on behalf of Premises Licence Holder)
Andy Cottam, Timothy Cook (Interested Parties)
Councillor Rogers (representing Marilyn Wasyliw, an Interested Party)

Determination –

Ian Streeter, the Licensing Manager, presented the Head of Citywide Services' report to the Licensing sub-committee ("the Report").

The Committee heard an application by Janet Wilkinson and Kevin Lee to review the premises licence in respect of Mr Pizza, 47 Portersfield Road, Norwich NR2 3JU ("the Premises"). The Applicants called as witnesses Mr Cottam, Mr Cook and Councillor Rogers (who represented Ms Wasyliw). Their representations centred on the licensing objectives of the prevention of public nuisance but also raised issues falling within the licensing objectives of the

prevention of crime and disorder and the protection of children from harm. Noise was the predominate nuisance emanating from the premises with customers coming and going noisily to and from it along the residential streets at night when people were trying to sleep and this was particularly worse during the warmer evenings when residents may have their windows open. Some of the customers were collected by taxi and this caused disturbance with doors slamming and engines running and taxi drivers shouting for their customers. Delivery staff and vehicles caused similar disturbance plus some of the kitchen and delivery staff chatted whilst they smoked outside the premises.

The Committee heard from Mr Gilgil largely via his friend Mr Kaya.

Mr Gilgil had viewed the Applicants' DVD containing audio and video footage of the premises in the evening and did not contest its contents save as follows. Mr Gilgil questioned the audio volume as being too loud and not representative of the normal noise level. Ms Wilkinson advised the Committee that it had been recorded with her video camera's built in microphone and that the footage had been taken from her bedroom window on the first floor of her property. As the Committee had not viewed the DVD it was played before the Committee however as it was approximately 40 minutes long only a few minutes were viewed.

Mr Streeter advised the Committee that Mr Gilgil accepted that he had breached the conditions of the premises licence by trading beyond the permitted hours for the licensable activity. Mr Gilgil had allowed customers to receive their orders via a side door of the premises after the official opening hours of the premises had elapsed. Mr Gilgil's explanation for this was that he mistakenly thought what mattered for the purposes of his license was the time when the order was taken rather than when the hot food or drink was physically supplied to the customer. In addition Mr Gilgil accepted that he had not displayed the opening hours in the premises as required by the conditions of the premises licence however he had recently rectified this breach.

Mr Gilgil adduced a number of short letters or notes in support of his business. He accepted that the letters were from customers of the premises and that they resided further from the premises than the Applicants or the Interested Parties who appeared before the Committee.

By way of a closing statement Ms Wilkinson said that Mr Gilgil was not disputing the nuisance caused by the premises. She asked the Committee to consider limiting the licensable activity to 23:00 hours.

The Committee's decision:

<p>The Committee reviewed the premises licence and determined that the licence be revoked.</p>
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The Committee's reasons:

Members took into account the statutory guidance, the Council's own local licensing policy as well all of the representations made and the evidence viewed and heard.

The Committee made a finding of fact that the premises were causing a public nuisance, namely noise nuisance, in that some of the premises customers were noisily arriving and leaving late in the evening by foot or by taxi. Disturbance was also caused by staff from the premises chatting and smoking outside or carrying out their work, in particular delivery staff and their vehicles were a nuisance. All of this was having a detrimental effect on local residents in that their sleep was disturbed resulting in sleep deprivation, stress and a significant reduction in their mental and physical wellbeing. This nuisance had been longstanding and had got progressively worse since 2005 when the licence was granted. The Applicants had endeavoured to be good neighbours by raising their concerns directly with Mr Gilgil and his staff rather than making formal complaints to the Responsible Authorities however this had not improved the situation and therefore they had reluctantly applied to have the licence reviewed. In addition the Committee noted that the licence holder had admitted that he has breached the conditions of his licence, in particular he had regularly exceeded the permitted hours of the licensable activity.

It was not practicable for added conditions to deal with the problems being caused as either the nuisance was inherent in the activity, such as delivery drivers arriving and leaving the premises, or were beyond the control of the premises such as customers noisily coming and going to/from the premises late in the evening along residential streets where many residents may be trying to sleep.

Taking all the circumstances of the matter into consideration the Committee considered it appropriate to revoke the licence in order to promote the licensing objectives.

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 17th September 2012