



NORWICH
City Council

NORWICH CITY COUNCIL

NOTICE OF DETERMINATION

Date of Hearing: 5 August 2021

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

Address: Coach and Horses, 51 Bethel Street, Norwich NR2 1NR

Applicant: Greene King Retailing Limited

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

Other persons attending committee: Ms Jackie Rodger, Mr Chris Reynolds and Ms Maxine Fuller, officers of Norwich City Council, Mr David Lowens, solicitor and committee legal advisor, Mr Piers Warne, solicitor and applicant's representative, Mr Anthony Munro and Ms Amy King for the applicant, Mr Anthony Shearman representing the Public Protection team (objector).

The committee took place in the Council Chamber, City Hall. No additional papers were presented in addition to those provided in advance of committee.

DETERMINATION / NOTES OF HEARING

1. There were no apologies or declarations of interest. Cllr Stutely informed committee that he had advised the applicant upon procedural matters in advance of committee.
2. Ms Fuller presented the report.
3. Mr Warne addressed committee, noting that there were five parts to the application but that as only one was in dispute, namely the variation regarding use of the outside area, he did not intend to speak to the other proposed variations. The Chair confirmed that approach was acceptable.
4. Mr Warne noted the representation of the Public Protection team and their comment on a temporary extension and suggested this approach was inappropriate, the committee role was to promote the licensing objectives and if it was appropriate to grant the variation at all it should be on a permanent basis.
5. He mentioned that some concerns had been raised by neighbours in 2016/17 but no complaints had been received since then. The premises had tested the extension by operating to this time on five weekends earlier in the year. No

objections or concerns had been raised. The 2003 Act was intended to enable a light touch approach to regulation and if concerns did arise, they could be actioned via the review procedure. He noted the “Pub in the park” case and suggested that whilst this did not bind committee the approach of the District Judge regarding the inappropriateness of limiting an acceptable proposal to just one year should be noted as persuasive. Mr Warne noted that there were no police objections to the proposals and that a later closing time in the garden would assist with a gentle movement from the area.

6. In response to a request from the Chair the applicant mentioned how the outside area is currently run and that they would not change their approach, actions would just happen later. At approx. 10:45/11 pm it was intended to talk to customers in the area to remind them of last orders and that the area needed to be vacated by 11:30pm.
7. In response to a question from Cllr Giles regarding the lack of controls specified in the variation application the applicant noted that since this was a variation application it was not thought necessary to include existing conditions, the business is well run and it was not felt necessary to add further conditions. No change in how the business is being run is proposed. Regarding complaints of noise there had been some issues in 2016 regarding persons smoking at the front of the premises and there had been a complaint re band noise, the business was now careful to avoid activities that might cause issues with neighbours. Greene King being the premises licence holder can ensure compliance by tenants and would be involved in any discussion of problems raised by any responsible authority.
8. Mr Warne said that the premises had taken advantage of seven TEN's this year to cover weekends, with no complaints received and no visits from neighbours. The last occasion was the PRIDE weekend.
9. Mr Shearman addressed committee. He was concerned that any relaxation of the condition being discussed would be likely to lead to public nuisance being caused. He had previously been of that view in 2016 and remained of that view. More people outside premises will make more noise and will always have an effect on nuisance. Central government had introduced the Business and Planning Act and had extended its effects to 2022 to assist venues, with a greater use of outside areas. The proposal from the Public Protection team for a temporary period would support this approach. Mr Shearman said there would be an inevitable impact on public nuisance and the maintenance of the time limitation will give support to persons who live directly adjacent to the outside area. Several single occupancy flats in Aldwych House look out onto the area and their occupiers have no way of escaping the noise from persons outside their windows.
10. Mr Shearman confirmed that there was no objection raised to the other variations proposed.

11. Mr Shearman noted that for the earlier application all residents were written to by the council, but this was no longer done. He suggested that there was no guarantee a resident had seen the notice on site or in the press.
12. Mr Warne noted his experience of residents frequently objecting to proposals, and that the occupiers of the flats would be able to see the notice when on their way from the city centre. Residents can speak for themselves and the TEN's have given evidence regarding the effects of the proposed use. There are no residential objections and there is no evidence of disturbance. Committee was reminded by Mr Warne of the need to take an evidence-based approach, that if the proposal was suitable currently it was suitable in the future, and if problems arose there was the review mechanism available to local residents to deal with them.

DECISION OF THE LICENSING SUB-COMMITTEE

The variation application was approved, it was not felt appropriate to impose further conditions.

REASONS FOR THE COMMITTEE'S DECISION

In coming to its decision, the committee had regard to the Statutory Guidance published under S182 of the Licensing Act 2003, as well as the council's own licensing policy and the evidence before committee.

The committee notes that only one proposed variation was challenged.

The committee has discarded the suggestion that a trial period should be used to match the Business and Planning Act permissions, on the basis that if the proposal is unsatisfactory not even a trial period is acceptable. If the proposal is satisfactory there is no good reason to introduce a trial/temporary period of extended hours.

No evidence has been provided to suggest the application was not properly advertised and there is no reason to think that members of the public were unaware of the application. No resident has objected.

The lack of representations from residents is given significant weight, and committee notes that sufficient TEN events have taken place to make it more likely than not that nuisance which concerned residents would have been reported to either or both the premises licence holder and the council's Public Protection team. The evidence before committee is that no complaints have been received.

The concerns of the Public Protection team are not trivial, being honestly held by an expert, but the council on balance does not find a sufficient evidential basis supporting or corroborating their concerns about damage to the prevention of public nuisance licensing objective to justify refusal.

The committee has also taken into account that this is a city centre location and the hours for which an extension is sought are limited to the evening. With the evidence available the committee grants the variations sought.

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 appeal provisions under Schedule 5 of the Licensing Act 2003.

Dated 13 August 2021

A handwritten signature in black ink, consisting of a large, stylized capital 'S' followed by a capital 'H' and a capital 'L'.

Signed: (Chair, Licensing Sub-Committee)