

NORWICH CITY COUNCIL

Report for Resolution

Report To Licensing Sub-Committee
27 January 2011

3

Report of Head of Citywide Services

Subject Licensing Act 2003:
Application for the Grant of a Premises Licence -
1 Woodgrove Parade Catton Grove Norwich NR3 3NS

Purpose

Members are asked, in accordance with the delegation of licensing functions contained in the Norwich City Council Statement of Licensing Policy (Licensing Act 2003), to consider the application to grant a Premises Licence in respect of 1 Woodgrove Parade Catton Grove Norwich NR3 3NS following the receipt of Interested Party objections.

Recommendation

That Members determine the application to grant a Premises Licence in respect of the 1 Woodgrove Parade Catton Grove Norwich NR3 3NS in accordance with the:

- Licensing Act 2003;
- Guidance issued under Section 182 of the Licensing Act 2003; and
- Norwich City Council Statement of Licensing Policy.

Financial Consequences

The financial consequences for this report are nil.

Corporate Objective/Service Plan Priority

The report helps to achieve the service plan priority of protecting the interests of the public through the administration of the licensing function.

Contact Officer
Ian Streeter

Phone No 212439

Background Documents

The Licensing Act 2003
Guidance issued under Section 182 of the Licensing Act 2003
Norwich City Council Statement of Licensing Policy

1.0 The Application

- 1.1 The applicant is Rajasingam Kajanthan of 7 Wren Close Norwich NR4 7NR.
- 1.2 The application premises are to be a convenience store with off sales of alcohol.
- 1.3 This grant application seeks to allow the supply of alcohol off the premises.
- 1.4 The details of the Operating Schedule contained in the application are as follows:
 - 1.4.1 The Licensable Activities are:
 - Supply of alcohol (for consumption off the premises)
 - 1.4.2 The proposed standard days and hours for the licensable activities are:

• Supply of alcohol	06:00 – 00:00	Sun - Mon
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 - 1.4.3 The opening hours requested are:

	06:00 – 00:00	Sun – Mon
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 - 1.4.4 The section of the application form on which the applicant puts forward the measures to support the Licensing Objectives has been left blank.
- 1.5 Following discussions with Norfolk Constabulary the applicant has proposed to amend the terminal hour for the supply of alcohol to 23:00 hours and to add the following conditions to the operating schedule:
 - Challenge 21 policy will be in operation and anyone who appears to look under this age will be asked to provide credible photographic evidence.
 - A refusal book will be kept and be available to the police or licensing authority on request.
 - Staff will be trained in relation to the sale of alcohol and a record of training will be kept on site and produced to the police or licensing authority on request.
 - CCTV to be in operation and recording for a minimum of 28 days for footage to be available to the police or licensing authority on request.

2. Relevant Representations

- 2.1 The responses from the Responsible Authorities are as follows:

Police – No representations.
Environmental Services – No representations.
Fire Officer – No representations.
Planning Officer – No representations.

Area Child Protection Committee – No representations.
Trading Standards – No representations.

- 2.2 Representations objecting to the application have been received from Interested Parties with concerns relating mainly to the licensing objective of the Prevention of Public Nuisance. Copies of these representations are attached to the report at Appendix A.
- 2.3 A site map of the area identifying the application premises in relation to the Interested Party addresses will be available at the meeting.

3.0 Norwich City Council Statement of Licensing Policy

- 3.1 Attached at Appendix B are the elements of the City Council's local Licensing Policy which are considered to have a bearing upon the application:

4.0 National Guidance (issued under section 182 of the Licensing Act 2003)

- 4.1 Attached at Appendix C are the elements of the National Guidance issued by the Secretary of State that are considered to have a bearing upon the application.

5.0 Summary

- 5.1 The Sub-Committee is obliged to determine this application with a view to promoting the licensing objectives which are:
- the prevention of crime and disorder;
public safety;
the prevention of public nuisance;
the protection of children from harm.
- 5.2 In making its decision, the Sub-Committee is also obliged to have regard to guidance issued under Section 182 of the Licensing Act 2003 (National Guidance) and the Council's own local licensing policy. The Sub-Committee must also have regard to all of the representations made and the evidence it hears.
- 5.3 The Sub-Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:
- Grant the application as asked;
 - Modify the conditions of the licence by altering or omitting or adding to them;
 - Reject the whole or part of the application
- 5.4 The Sub-Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it

desirable to do so. It must actually be necessary in order to promote the licensing objectives.

- 5.5 The representations received from the Interested Parties appear to relate to issues that fall under the licensing objective of the prevention of public nuisance. The Sub-Committee is directed to paragraph 24 of the local licensing policy at Appendix C which contain examples of factors that impact on the licensing objective of the prevention of public nuisance that the applicant could consider when addressing these issues. These paragraphs also contains examples of control measures that may be taken into account in operating schedules having regard to the type of premises and/or the licensable activities.
- 5.6 Insofar as the issue of licensing hours is concerned, the Sub-Committee is directed to paragraph 13.41 of the national guidance, which states that licensing hours should not inhibit the development of evening and night-time local economies, and that providing consumers with a greater choice and flexibility is an important consideration. However, this should always be carefully balanced against the duty to promote the four licensing objectives and the rights of local residents to peace and quiet. The Sub-Committee is also directed to paragraph 30.5 of the local licensing policy, authorising the restriction of licensing hours, where the licensing authority believes, on the basis of representations, that to not do so would exacerbate public nuisance.

The Committee must decide whether there is a strong enough case for the restriction of licensing hours, based on the representations made, to promote the licensing objectives.

- 5.7 The Sub-Committee is also reminded of the contents of appendix 4 of the local licensing policy (not re-produced in this report) which contains a pool of model conditions relating to the prevention of public nuisance.

Organisational Development

21 DEC 2010

Post Room

Norwich City Council Licensing Authority Licensing Act 2003

Statement of support or objection to an application for a premises licence

20 DEC 2010

LICENSING OFFICE

Your name/organisation name/name of body you represent (see note 1)	OCCUPIER
Postal address	6 ALBURN AVE NR3 3NY
Email address	
Contact telephone number	

Name of the premises you wish to support or object to	1 WOODGROVE PARADE NR3 3NS
Address of the premises you wish to support or object to.	1 WOODGROVE PARADE CATTON GROVE RD NR3 3NS

Your support or objection must relate to one of the four Licensing Objectives (see note 2)

Licensing Objective	Please set out your support or objections below. Please use separate sheets if necessary
To prevent crime and disorder	<p>I OBJECT TO THE LICENSE BEING GRANTED FOR REASONS THAT THE LAND AND AT THE REAR OF THE PREMISES IS IDEAL FOR OFF PREMISES ALCOHOL ABUSE AND TOILET USE, ALSO WITH GOVERNMENT, HOSPITALS & POLICE AUTHORITIES CAMPAINING AGAINST ALCOHOL ABUSE, AS WE ALREADY HAVE A LICENCED PREMISES IN THE PARADE NAMELY CO-OP. I THINK THAT IS ADEQUAT IN THE PRESENT CLIMATE, ALSO WHY I OBJECT IS THAT WITH A FAST FOOD OUTLET AT THE OTHER END OF THE PARADE IN OUR OPINION IT WOULD BE A CATASTROPH FOR PUBLIC NUISANCE, I WOULD LIKE TO SEE NEW BUSINESSES IN THE EMPTY SHOPS! BUT THE RIGHT ONES.</p>
Public safety	
To prevent public nuisance	
To protect children from harm	

Please suggest any conditions which would alleviate your concerns.	
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Signed:

Date: 14/12/10

Please see notes on reverse

Norwich City Council Licensing Authority
Licensing Act 2003

Statement of support or objection to
an application for a premises licence

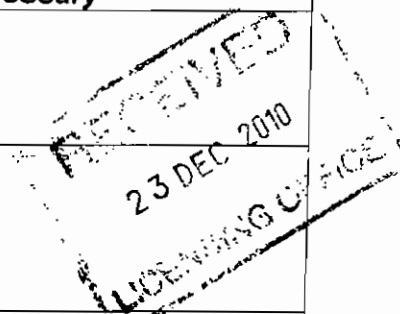


Your name/organisation name/name of body you represent (see note 1)	GRAHAM MARSH
Postal address	77 CATTON GROVE ROAD, NORWICH NR3 3NR
Email address	NONE
Contact telephone number	

Name of the premises you wish to support or object to	NONE GIVEN
Address of the premises you wish to support or object to.	1 WOODGROVE PARADE, CATTON GROVE ROAD, NORWICH

Your support or objection must relate to one of the four Licensing Objectives (see note 2)

Licensing Objective	Please set out your support or objections below. Please use separate sheets if necessary
To prevent crime and disorder	
Public safety	
To prevent public nuisance	I DON'T OBJECT TO THE OPENING OF AN OFF-LICENCE, BUT I WOULD QUESTION THE TRADING HOURS. ALREADY 2 LATE-NIGHT BUSINESSES OPERATE FROM WOODGROVE PARADE, WHICH IS SURROUNDED BY HOUSES AND FLATS. SHOULD A THIRD ONE BE ALLOWED?
To protect children from harm	



Please suggest any conditions which would alleviate your concerns.	CLOSE SHOP AT 10.00 P.M., THUS MINIMISING DISTURBANCE TO NEIGHBOURS.
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Signed:

Date: 20 DECEMBER 2010.

Please see notes on reverse

Organisational Development

20 DEC 2010

Post Room

Norwich City Council Licensing Authority Licensing Act 2003

Statement of support or objection to an application for a premises licence

20 DEC 2010

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Your name/organisation name/name of body you represent (see note 1)	PETER LOSE
Postal address	NR3 3NZ LILBURN AVENUE, 1d.
Email address	
Contact telephone number	

Name of the premises you wish to support or object to	-
Address of the premises you wish to support or object to.	1 WOODBONE PARADE, CATTON GROVE ROAD, NR3 3NS

Your support or objection must relate to one of the four Licensing Objectives (see note 2)

Licensing Objective	Please set out your support or objections below. Please use separate sheets if necessary
To prevent crime and disorder	OBJECTION - THIS AREA ALREADY SUFFERS FROM NOISE + NUISANCE WITH YOUNGSTERS DRIVING IRRESPONSIBLY - NORMALLY MEETING UP FOR A LIDDS!
Public safety	AS ABOVE - ALCOHOL FUELS IRRESPONSIBILITY.
To prevent public nuisance	AS PER MY COMMENTS ABOVE.
To protect children from harm	WITHOUT DOUBT - A CONTINUATION OF MY COMMENTS ABOVE.

Please suggest any conditions which would alleviate your concerns.	ONLY ALLOWS OPENING TIMES BETWEEN 12pm - 9pm
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Signed:

Date: 15/12/10

Please see notes on reverse

APPENDIX B

Local Policy considerations

1.0 Introduction

1.4 The 2003 Act requires the Council to carry out its various licensing functions so as to promote the four licensing objectives. These are:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

1.5 The 2003 Act also requires that the Council publishes a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.

2.0 Consultation and Links to other Policies and Strategies

2.7 So far as possible, the Council will avoid duplication with other regulatory regimes, and will not to use its powers under the Licensing Act 2003 to achieve outcomes that can be achieved by other legislation and other enforcement agencies. As an example, the council will not seek to impose fire safety conditions that may duplicate any requirements or prohibitions that could be imposed under the Regulatory Reform (Fire Safety) Order 2005.

3.0 Applications for Licences

3.2 Applicants must address the four licensing objectives in their operational plan. The operating plan must have regard to the nature of the area where the premises are situated, the type of premises, the licensable activities to be provided, operational procedures and the needs of the local community. The operating schedule must demonstrate how the premises will be "good neighbours" both to residents and to other venues and businesses.

3.3 Applicants must provide evidence that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style, location and characteristics of their premises and activities. They must also also indicate if additional measures will be taken on an occasional or specific basis, such as when a special event or promotion is planned, which is, for example, likely to attract larger audiences.

4.0 Representations

- 4.1 “Responsible Authorities” (see Appendix 7) will be asked to consider all applications and to make representations to the Council, if they relate to the promotion of the four licensing objectives and particularly in respect of applications which, might be regarded as contentious. Representations must be evidentially based and the organisation should attend any hearing when the application is being considered. Representations can be made in opposition to, or in support of, an application.
- 4.2 The Council will consider all representations from any “Interested Party” (see Appendix 7), or their representative, which should preferably be evidentially based and supported by attendance at any hearing at which the application is being considered.
- 4.3 A representation, will only be accepted by the Council if it is ‘relevant’, ie it must relate to the likely effect of granting the licence on the promotion of at least one of the four licensing objectives. Representations, that are regarded as being frivolous or vexatious, will not be considered, and in the case of a review of a licence, any representation which is regarded as repetitious, will also not be considered. A decision as to whether a representation is frivolous, vexatious or repetitive will be made by an officer of the Council.
- 5.0 Conditions attaching to Licenses
- 5.1 Where relevant representations are made, the Council will make objective judgments as to whether conditions may need to be attached to the premises licence to secure achievement of the licensing objectives. Any conditions arising as a result of representations will primarily focus on the direct impact of the activities taking place at licensed premises, on those attending the premises, and members of the public living, working or engaged in normal activity in the area concerned, and will cover matters that are within the control of individual licensees.
- 5.2 All applications will be considered on an individual basis and any condition attached to such a licence, will be tailored to each individual premises, in order to avoid the imposition of disproportionate or burdensome conditions on those premises. Therefore, mandatory conditions, will only be imposed where they are necessary for the promotion of the licensing objectives.
- 8.0 The Impact of Licensed Premises
- 8.1 When considering whether any licensed activity should be permitted, and a relevant representation has been received, the likelihood of it causing unacceptable adverse impact will be assessed by taking into account relevant matters including:
- the type of use, the number of customers likely to attend the premises and the type of customers at the time of the application;
 - the proposed hours of operation;

- the level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that will be used by the customers;
- the means of access to the premises including the location of customer entrances and exits;
- the provision of toilet facilities;
- the frequency of the licensable activity.

With any adverse impact it may be possible to take steps to mitigate or prevent the impact and if such measures are reliable an activity may be licensed.

13.0 Management of Licensed Premises

- 13.1 Within the operating schedule for premises from which alcohol will be sold, with the exception of qualifying community premises, a premises supervisor must be designated (designated premises supervisor) and such person must be in possession of a current personal licence. The licensing authority will normally expect the designated premises supervisor [DPS] to have been given the day to day responsibility for running the premises by the premises licence holder and, as such, would normally be present on the licensed premises on a regular basis. In addition to the DPS holding a personal licence, the licensing authority would strongly encourage the DPS to undergo additional training and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.
- 13.2 The act does not require a DPS or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the DPS and the premises licence holder remain responsible for the premises at all times and have a duty to comply with the terms of the licensing act and any conditions, including the matters set out in the premises' operating schedule, in order to promote the licensing objectives. To that end, the licensing authority will be mindful of the guidance issued by the secretary of state, which recommends that a personal licence holder/DPS gives specific written authorisations to those individuals they are authorising to retail alcohol. Although written authorisation is not a requirement of the act and the designated premises supervisor/personal licence holder remain ultimately responsible for ensuring compliance with the act and licensing conditions, this action could assist in demonstrating due diligence should any issues arise with regard to enforcement.

The licensing authority will therefore expect that where the personal licence holder/DPS does not have the premises under their immediate day to day control, written authorisations will be issued to staff acting on their behalf, such authorisations being made available for inspection by a responsible Officer of the licensing authority or the police upon request.

LICENSING OBJECTIVES

24.0 Objective - prevention of public nuisance

24.1 Licensed premises can potentially have a significantly adverse impact on communities through public nuisances that arise from their operation. The amenity of residents and occupiers of other businesses should be maintained and protected from the potential consequence of the operation of licensed premises, whilst recognising the valuable cultural, social and business importance that such premises provide.

24.2 Public nuisance will be interpreted in its widest sense, and will take it to include such issues as noise, light, odour, litter and antisocial behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

24.3 Applicants should be aware that stricter conditions, including controls on licensing hours for all or some licensable activities will be applied, where licensed premises are in residential areas or where their activities may impact on residents or other business premises, and where relevant representations have been received. Conversely, premises for which it can be demonstrated have effective measures to prevent public nuisance, may be suitable for longer opening hours.

24.4 The council will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are exceptional reasons such as disturbance or disorder attributable to the location and/or the premises, and relevant representations have been made.

24.5 The council believe that the impact a licensed premises can have on a neighbourhood is significantly influenced by the times when those licensed premises are open, and the times when licensable activities are taking place. Consequently, the council has adopted a policy on hours of trading, (section E) and in so doing, has given full consideration to the secretary of state's guidance on hours of trading.

24.6 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events. For example, the increasing business requirement for licence holders to provide live or recorded music in premises where this has not previously been the case is especially pertinent, and should be fully assessed on the application.

24.7 When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:

- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices, care homes and places of worship
- the hours of opening, particularly between 11pm and 7am

- the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
- the design and layout of premises and in particular the presence of noise limiting features
- the occupancy capacity of the premises
- the availability of public transport
- wind down period between the end of the licensable activities and closure of the premises
- last admission time
- preventing litter and refuse becoming an eyesore
- consideration of local residents that they are not upset by loud or persistent noise or by excessive light
- preventing cars attending an event or premises from causing a noise nuisance and congestion, and from taking up local people's parking spaces
- avoid early morning or late night refuse collections
- avoiding emptying bins into skips, especially if they contain glass, either late at night or early in the morning
- customers eating, drinking or smoking in open air areas (for example beer gardens/forecourts and other open areas adjacent to the premises).

24.8 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises.
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, eg to ensure customers leave quietly.
- Fit prominent signs requesting that customers respect local residents and leave quietly.
- Control of operating hours for all or parts (eg garden areas) of premises, including such matters as deliveries ie not too early in the morning.
- Adoption of best practice guidance (eg Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics, Licensed Property: Noise, published by BBPA).
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
- Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises.
- Liaison with public transport providers.
- Siting of external lighting, including security lighting.
- Management arrangements for collection and disposal of waste, empty bottles etc.
- Effective ventilation systems to prevent the emission of unwanted odours.
- Take away packaging to include the name and address of the premises on it.
- Capacity levels for fast food outlets.
- Introduce a chill out area with coffee and mellow music where customers can settle before leaving.

- Introduce a closed door policy, with attendance prohibited for new customers 2 to 3 hours before licensable activities finish.

To address issues arising from customers smoking, eating and drinking in outdoor areas and on the highway outside the premises could include signage asking customers to keep noise to a minimum when using outdoor areas; restrictions on the numbers of customers permitted in certain outside areas and/or at certain times; and use of door-staff and employees to monitor possible public nuisance issues.

SECTION E - Hours of Trading

30.5 The policy options which will be applied to applications for premises licences where the sale or supply of alcohol for consumption on the premises is proposed, are as follows:

- **The Council will consider restricting the hours if it believes, on the basis of representations made, that not doing so would lead to or exacerbate problems of crime, disorder or public nuisance.**
- Where no relevant representations are received from either a responsible body or an interested party, the application will be granted in accordance with the terms of the operating schedule.
- Where relevant representations are received from either a responsible body or an interested party, and those representations relate to the hours of trading then subject to (a) above, the Council will consider restricting the hours in relation to any of the licensable activities for which a licence is being sought, provided it is considered necessary to do so in order to promote one or more of the licensing objectives which may not be achieved without such restrictions. The Council may impose different restrictions on hours for different licensable activities and for different days of the week.

APPENDIX C

National Guidance (issued under section 182 of the Licensing Act 2003)

Where representations are made

9.4 “It is for the licensing authority to decide in the first instance whether or not representations are relevant. This may involve determining whether they have been made by an interested party and whether or not, for example, an individual making a representation resides or is involved in business “in the vicinity” of the premises concerned...”

9.5 “...licensing authorities should consider whether the individuals residence or business is likely to be directly affected by disorder and disturbance occurring or potentially occurring on those premises or immediately outside the premises.”

Hours of trading

10.21 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours. For example, a limitation may be appropriate following police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there.

Fundamental principles

13.16 “...licensing is about regulating licensable activities on licensed premises...and the conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations, i.e. the premises and its vicinity.”

13.17 “...whether or not incidents can be regarded as being “in the vicinity” of licensed premises is a question of fact and will depend on the particular circumstances of the case.”

Licensing law and the control of anti-social behaviour

13.18 “...licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises.”

Standardised conditions

13.20 “Statements of policy should make it clear that a key concept underscoring the 2003 Act is for conditions to be tailored to the specific premises concerned. This effectively rules out standardised conditions...However, it is acceptable for licensing authorities to draw attention in their statements of

policy to pools of conditions which applicants and others may draw on as appropriate.”

Licensing hours

13.40 “...in some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided. This can help to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance.”

13.41 “...the Government also wants to ensure that licensing hours should not inhibit the development of thriving and safe evening and night-time economies...”

Consideration for residents

13.41 “...Providing consumers with greater choice and flexibility is an important consideration, but should always be balanced carefully against the duty to promote the four licensing objectives and the rights of local residents to peace and quiet.”