



NORWICH
City Council

NOTICE OF DETERMINATION

Date of Committee: 21 January 2019

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

Name of applicant for review – Norwich City Council Environmental Protection Team

Name of Premises/postal address: Belle Vue, 46 St. Philip's Road Norwich NR2 3EL

Members of Licensing Sub-Committee: Cllrs Fullman (Chair), Brociek-Coulton and Stutely

Other persons present: Mr R Taylor, Solicitor for E1 Group PLC (premises licence holder), Mr J Smith (trainee solicitor), Mr A Wgan (E1 Group PLC Regional Manager). Mr H Cawley – Landlord and Ms F Cawley – Landlady. Ms J Wythe, Mr R Divey and Mr A Miles of Norwich City Council Environmental Protection Team, Ms M Fuller Licensing Officer and Mr D Hannant, press, Mr Mark Philo, resident, Mr D Lowens of nplaw (solicitor, Norfolk County Council) (clerk).

A coloured plan showing the licensed areas at the premises and a street plan showing the location of the Belle Vue public house and location of persons who had made representations were circulated prior to committee.

There were no declarations of interest.

NOTES OF HEARING

Mr Mark Philo attended committee shortly after the start of the committee and the proceedings were restarted.

Ms Fuller presented the report. Mr Divey addressed committee noting that the application for a review was due to noise nuisance issues arising from the Belle Vue public house. Mr Divey had come to the view that there was a statutory noise nuisance taking place in accordance with the details given in the grounds for the review but due to the Live Music Act the live music could not be controlled under the premises licence conditions and that a review was necessary. Mr Divey responded to a question as to how any noise limiter level would be set. Mr Divey was not aware of any noise issues arising from the use of the doors at the rear of the premises and as far as he was aware escape of noise from this source was not an issue.

Mr Taylor on behalf of the respondent E1 Group PLC addressed committee noting that the group owned significant numbers of public houses which were generally let on tenancies. The tenant here was very upset regarding these proceedings. She was an experienced operator. On the evening when nuisance was noted the music was stopped immediately when the tenant was made aware. The respondent accepted that the premises were not suitable for live music and discussions had been held with the Environmental Health team and an agreed course of action was promptly organised to deal with the issues. The legislation is such that it is necessary for a review to be held rather than for additional conditions to be agreed between the parties as these would be unenforceable. No noise limiter was yet installed as the result of this committee was awaited. If the proposed conditions were endorsed the intention was to introduce the noise limiter within a month. The respondent proposed that live music be removed from the premises licence due to the structure of the premises being unsuitable for this use.

Mr Taylor noted that the two representations shown on the plan did not come from the nearest residences. In respect of Mr Philo's noise complaint the premises were not suitable for live music. Reference was made to the statutory guidance paragraph 11.20 and the committee was invited to consider the cause of the problem, to direct remedial action at the cause and to ensure that any action taken was proportionate. The committee was requested to impose two conditions (agreed with the Environmental Health Department) and to remove live music from the licence.

Mr Philo addressed committee noting that his complaint related to live music and that he was very pleased it was recognised that the premises noting this high density residential area was not suitable for the level of live music that had taken place.

It was agreed that if the committee were minded to impose the conditions proposed the noise level set for recorded music should be agreed in writing with the Environmental Health team.

DECISIONS OF THE COMMITTEE:

1. The playing of live music is removed from the licensable activities authorised by the premises licence.
2. Condition added - No live music is to be played in the premises.
3. Condition added - Any recorded music played within the premises is to be played through a noise limiting device. Levels of recorded music to be played will be agreed in writing with an Environmental Health Officer and fixed at those levels.

The conditions are imposed upon review of the premises licence pursuant to section 177 A(4) of the Licensing Act 2003.

REASONS FOR THE COMMITTEE'S DECISION

The committee noted that there was agreement between the responsible authority and the premises licence holder. Whilst one representation mentioned noise heard from the garden and outside drinkers and smokers the representation did not state the level was unacceptable and it appeared to committee that it was noise from live and recorded music that was the context of the review. It was agreed by the respondent that the premises were not suitable for the playing of live music and that recorded music should be controlled by a

noise limiter. In accordance with the statutory guidance the committee was happy that the cause of the disturbance was the escape of music noise and the remedial matters agreed would deal with those relevant issues in a proportionate manner.

RIGHTS OF APPEAL

Full rights of appeal are set out in Schedule 5 to the Licensing Act 2003. Any person wishing to appeal this decision or any part of it should apply for that purpose to the Magistrates Court within 21 days of being notified of the decision appealed against.

Dated this 24th January 2019