



## DECISION NOTICE

Date	09 May 2017
Applicant	MJN Worldwide Properties Ltd, Capri, 4a Dicconson Terrace, Lytham
Reason for Hearing	<p>The Licensing Authority has received an application for the variation of a premises licence at Capri, 4a Dicconson Terrace, Lytham.</p> <p>There has been a representation from an “other person” as defined by the Licensing Act 2003. As such a hearing must be held to determine the application.</p>
Parties in Attendance	<p><b>Panel:</b></p> <p>Councillor Angela Jacques - Convenor, Councillor Barbara Nash, Councillor Neil Harvey.</p> <p><b>Applicant:</b></p> <p>Trevor Colebourne, representing Charles Furnell of the applicant, MJN Worldwide Properties Ltd.</p> <p><b>Other Persons:</b></p> <p>Nicholas Martin, representing Miss Sheila Penn</p>

The licensing authority has received an application for the variation of the premises licence at Capri, 4a Dicconson Terrace, Lytham. The variation applied for would allow the use of the front external area for the consumption of food and drink until 11.00 in the evening, instead of 10.00pm, and would allow the sale of alcohol on the premises and the playing of recorded music to take place for one hour longer on Sundays to Thursdays and during certain other evenings of the year, identified in the application.

A representation about the application had been received from Sheila Penn, who lives next door to the application premises, and who is defined as an ‘other person’ by the Act.

We heard from Mr Martin, representative of Miss Penn, and from Trevor Colebourne, solicitor, representing the applicant, Charles Furnell. We thank the representatives for their help.

In considering the application, the panel had to consider whether varying the licence as requested would promote the four licensing objectives which are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

This was the subject of the hearing this afternoon.

The issues arising were around the potential for noise nuisance, and therefore the prevention of public nuisance licensing objective was engaged.

We took into account the information put before us, the Council's Statement of Licensing Policy and the Guidance issued under section 182 of the Licensing Act 2003.

Although there was some discussion of the effect of music played within the premises, it soon became clear to us that the main point of contention between the parties was in relation to the extended use of the outside area. We will return to that in a moment. So far as the additional hour for the sale of alcohol is concerned and the parts of the application that apply to the playing of recorded music, we grant those as requested.

Turning to the outside area, we were concerned for the potential for disturbance of the adjoining residential occupier, Miss Penn, which would be likely to be caused by the use of the outside area until 11.00pm, seven days per week. We felt that it was reasonable that Miss Penn should be able to sleep with her bedroom window ajar, and that it would be unreasonable to expect her to tolerate the inevitable additional noise disturbance that would flow from the extended use of the outside area each day of the week.

We noted Mr Colebourne's point, which was well made, that it was desirable that there be a 'level playing field' for licensed premises within Lytham. But, desirable as that may be, it is not the criterion, or certainly not the main criterion, that we had to consider. Our decision has to be guided by what is appropriate to promote the licensing objectives, and in particular, the licensing objective of the prevention of public nuisance. We felt that, to promote that objective, it was necessary to strike a balance between the interests of the applicant and those of Miss Penn. Our judgment is that the correct balance is to grant the extended use of the outside area until 11.00pm, but only on Friday and Saturday each week, and during the Friday, Saturday, Sunday and Monday of each of the following bank holiday weekends; Easter, May Bank Holiday, August Bank Holiday, and on Valentines Night, Lytham Club Day and every night of Lytham Festival.

Our decision is as follows:

To grant the application for a variation to the premises license for Capri, 4a Dicconson Terrace, Lytham to allow the extension of the time allowed for the sale of alcohol and in relation to recorded music as applied for; and to amend condition 2.14, but only so far as relates to Friday and Saturday evenings and the additional evenings we have just indicated.

That is our decision and we thank you for your assistance.