

Decision Notice

Date	26 June 2014
Applicant	MJN Worldwide Properties Ltd
Reason for Hearing	<p>The Licensing Authority had received an application for the variation of a Premises Licence at Capri, 4a Dicconson Terrace, Lytham.</p> <p>There had been representations from other persons and the Environmental Protection, the local planning authority, Lancashire Constabulary who are responsible authorities under the Act, and this meant that the Committee must determine the application.</p>
Parties in attendance	<p>Panel:</p> <p>Councillor Angela Jacques - Convenor, Councillors Keith Beckett and Alan Clayton Councillor Barbara Nash (observer)</p> <p>Applicant:</p> <p>Rodger Wightman and Robin Atkinson of The Licensing Practice representing the Applicant.</p> <p>Responsible Authorities:</p> <p>Philip Dent representing Environmental Protection Andrew Stell representing Planning.</p> <p>Other Persons</p> <p>Sheila Penn, represented by Anthony Lyons of Kuits Solicitors Paul Douglas appearing as a witness for Sheila Penn Pamela Hunt</p>

The licensing authority received an application for the variation of a licence at premises known as Capri Grand Café and Bar at 4a Dicconson Terrace in Lytham (the Premises).

A number of residents and responsible authorities objected to the application. The objection from the police was the subject of mediation and agreement was reached on a set of conditions which were satisfactory to both parties (Appendix 1).

That left objections from residents, Lytham Civic Society, Councillor Hopwood, the planning authority and the environmental health authority. These were not mediated away and consequently were the subject of today's hearing. We thank the applicants, the residents and their representatives and the two responsible authorities for their help.

In considering the application, the panel had to consider whether granting the application would undermine any of the four licensing objectives which were:

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

The licensing objectives addressed by the objections were the prevention of public nuisance.

The issues today were around the hours of operation. The applicant amended its application at the hearing so that the opening hours and permitted hours for licensable activities on Monday to Wednesday remained unchanged. It did however wish to alter the licence as follows:

- Opening hours on Sunday to Midnight with licensable activities permitted until 11.30
- Opening hours on Thursday to 12.30am with licensable activities permitted until midnight
- Opening hours on Friday and Saturday until 01.30 with licensable activities permitted until 01.00
- To allow the external seating at the front of the premises to be used for consumption of food and drink until 22.00 hours.

All of those objecting argued for the licensable activities and the hours of use of the external area to remain unchanged. The residents told us that the Premises was predominantly being used as a bar and not as a restaurant in the evenings. All parties told us that the noise of patrons using the Premises both internally and externally is such that it affects the residential amenity of the neighbours and any extension to the hours would potentially cause further disturbance.

The applicant's representative refuted that the statement provided by Miss Penn's witness Mr Douglas provides evidence that Capri's operation generates crime and disorder and referred to nearby premises that operate until 1am and 1.30am. He also submitted that the Premises operated as a restaurant by virtue of the fact that food is available from 8am to 9pm.

We are only concerned with this Premises and accept the evidence of the objectors that this Premises on occasion causes a public nuisance and we felt that the nearby residents concerns are well founded. We are of the view that based on the evidence before us today including a witness statement and photographs from the applicant's own website that the Premises is being used as a bar in breach of its lawful planning use.

We recognise that the applicant is trying to enhance its business and that has led to this application to extend the hours. With this in mind we are of the view that a compromise is possible.

Therefore, taking 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 our decision is as follows:

1. To refuse the applicant's request to allow the external seating area at the front of the premises to be used until 22.00hours;
2. In terms of Sunday to Thursday to vary the licence to permit the sale of alcohol from 10am but make no change to the finishing time.
3. In terms of Friday and Saturday to permit the sale of alcohol from 10am and all licensable activities until 12.30am with a closing time of 1am.
4. The licence will be subject to the mandatory conditions and the conditions set out in the operating schedule as modified by the police save for the following amendments:

- 4.1 Police condition 14. Substitute 2200 with 2100 hours
- 4.2 Condition 3.23 of the existing licence shall be amended to read “All internal lobbied doors to any entrance/exit point, fire exit doors and external windows shall be closed from 9pm except in the event of an emergency and save for purposes of access and egress”

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

Attached Documents.

Appendix 1

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Agreement of conditions between the Applicant and the Police as approved by the panel.

The following conditions to be added to the operating schedule:

1. In the outside area, the supply of intoxicating liquor shall be by waiter/waitress service only and only to persons seated at tables.
2. The Premises Licence Holder shall ensure that staff monitor and adequately manage any queue that forms to gain entry to the premises.
3. An adequate number of licensed door supervisors shall be on duty as appropriate to any risk assessment. As a minimum, one member of door staff is to be employed at the venue on Friday and Saturday evenings from 2100 hours until close of business.
4. Adequate provision shall be made to prevent unauthorised access to the storage of empty bottles.
5. Whenever licensable activities are available at the premises a waiter/waitress service shall be available. However, in the outside area, the supply of intoxicating liquor shall be by waiter/waitress service only and only to persons seated at tables.
6. No customers will be admitted to the premises after midnight. For the avoidance of doubt, this condition shall not apply to those customers who were on the premises prior to midnight, and who exited the premises for the purpose of smoking.
7. A drugs prevention strategy for the premises shall be developed and applied to include any reasonable recommendations of Lancashire Constabulary.
8. Where there is reasonable suspicion that drugs are being carried the licence holder shall ensure that the outer clothing, pockets and bags of those entering the premises are searched by a trained staff member of the same sex.
9. Any customers known to the management to have been previously convicted of committing criminal offences relating to drugs shall be excluded from the premises.
10. No person in possession of a drink in a sealed or unsealed container will be allowed to enter the premises except for the purposes of delivery.
11. All members of staff shall receive suitable training with regard to serving drunks and are to receive regular refresher training at intervals of a maximum of six months. Records to evidence this will be made available to an authorised officer upon request.
12. Any person within the premises who appears to be intoxicated or who is behaving in a disorderly manner will be asked to leave the premises and will be escorted off the premises in a calm and appropriate manner.
13. Children under 16 shall vacate the premises by 2200 unless partaking in a meal or family function.
14. Patrons shall not be permitted to consume drinks in the external areas to the front and rear of the premises after 2200 each evening. Signs shall be displayed in prominent positions warning customers that they will not be permitted to eat or drink in the area after this time.
15. A Challenge 25 proof of age policy shall be implemented and adhered to. All staff to have received suitable training in relation to the Challenge 25 proof of age scheme. Records to evidence this will be made available to an authorised officer upon request.
16. Any person who looks or appears to be under the age of 25 shall be asked to provide identification that they are over the age of 18. The following are the only forms of identification acceptable:

- a. A recognised proof of age card accredited under the British Retail Consortium's Proof of Age Standards Scheme (PASS)
 - b. Photo driving licence
 - c. Citizen card supported by the Home Office
 - d. Official ID card issued by HM Forces or European Union bearing a photograph and date of birth of the holder.
 - e. Any form of identification which may be locally or nationally approved in the future
If no suitable identification is provided, the sale of alcohol to them will be refused.
17. All staff who are involved in the sale of alcohol shall receive suitable training in relation to the proof of age scheme to be applied upon the premises. All staff are to receive regular refresher training at intervals of a maximum of six months. Records to evidence this will be made available to an authorised officer upon request.
 18. Suitable signage will be displayed to specify that a Challenge 25 Policy is in place.

The following conditions to be removed from the operating schedule:

1. There shall be in place for the premises a policy to prevent the sale or supply of alcohol to persons under 18 years of age. That policy shall require any person who appears to be under the age of 21 years to produce a recognised proof of age card accredited under the Proof of Age Standards Scheme (PASS) or if a proof of age card is not available a photo driving licence or passport indicating that they are over 18 years of age.
2. All staff shall receive appropriate training in relation to the proof of age scheme to be applied upon the premises. Records to evidence this shall be made available to an authorised officer upon request.
3. An adequate number of licensed door supervisors shall be on duty as appropriate to any risk assessment and in accordance with the guidance under the Nightsafe Scheme. Such risk assessments shall be documented and kept on the premises and provided to the enforcement authorities on request.