

Emma Powley

From: Louise Marshall
Sent: 24 August 2017 15:14
To: Louise Faulkner
Subject: FW: Licence Application - 126 Wellingborough Road, Northampton

Hi Louise

Latest email chain, apologies you weren't copied in...

Thanks, Louise

Mrs Louise Marshall
Senior Environmental Health Officer
Customers & Communities (Regulatory Services)
Tel: (01604) 837661
lmarshall@northampton.gov.uk

Northampton Borough Council
The Guildhall (1st Floor) St Giles Square, Northampton NN1 1DE

From: Jon Payne [mailto:jp@licensinglawyers.co.uk]
Sent: 22 August 2017 15:45
To: Louise Marshall <lmarshall@northampton.gov.uk>
Subject: Re: Licence Application - 126 Wellingborough Road, Northampton

Many thanks, I am awaiting instructions and will respond as soon as I can.

Regards,

Jon Payne
BSc(Hons), Dip HSW, CMS, MCIEH, FRIPH, MIOL, CMIOSH,
Barrister (Non-practising), Solicitor

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On 22 Aug 2017, at 15:28, Louise Marshall <lmmarshall@northampton.gov.uk> wrote:

Dear Mr Payne

Further to your emails to Natasha Stanley regarding the licence application for 126 Wellingborough Road, Northampton, please see our revised suggested conditions below.

We would remove our objection to the 5am closing time should we be able to agree suitable wording for the control of live music at the venue as per Condition 1 below:

1. *Live music and recorded music will cease at midnight, except for*
 - (i) *Background recorded music played after that time*
 - (ii) *On 12 occasions per calendar year*
(Dates of these 12 occasions are to be recorded in the log book required in condition 4 below)
2. *A second wooden door, fitted with acoustic seals and self-closer to prevent noise breakout, shall be installed at the rear of the premises.*
3. *All external windows and doors must be kept shut at all times when regulated entertainment is being provided. Doors may be opened for normal entrance and egress of people (and for emergency use) but must be shut immediately afterwards.*
4. *On regular occasions after 23:00 and when the premises is open for the conduct of one or more licensable activities, a member of staff shall survey the area around the premises from time to time to ascertain if any noise from the premises is likely to be heard in any adjacent residential property. The member of staff will report back to the manager on duty and where a need for corrective action is required, this will be logged along with the corrective action taken, in a log book. This logbook shall also be used to record dates of the twelve occasions per calendar year referred to in condition 1(ii). The log book shall be retained at the premises, unless removed for the purpose of duplication, for a period of at least twelve months from the date of the last entry. This record shall be made available for inspection upon reasonable request by an authorised or police officer.*
5. *The rear yard shall not be used at any time for any licensable activity*
6. *A contact telephone number shall be provided for local residents or enforcement officers to call in case of emergency. This number shall be conspicuously displayed at the exterior of the premises.*
7. *A log book shall be maintained that shall record details of any calls made to the contact telephone number by a local resident or enforcement officer, where that call is in relation to one or more of the licensing objectives. The log shall record the date and time of the call, the identity of the caller if known, the issue reported and the corrective action taken. The log book shall be retained at the premises, unless removed for the purpose of duplication, for a period of at least twelve months from the*

date of the last entry. This record shall be made available for inspection upon reasonable request by an authorised or police officer.

8. Clear and legible notices must be prominently displayed at all exits requesting customers to respect nearby residents and leave the premises quietly

As can be seen, we don't appear to be too far from agreement, we have had to remove the last section of your suggested condition 1 as it appears to imitate the TENS process informally and there are practical issues for Environmental Health in administering such a process. The formal TENS application procedure would need to be used for events that exceeded the approved twelve.

There have been some minor alterations to the wording of some of the conditions as can be seen, and the introduction of two conditions controlling movements from the building. These have been suggested to limit the impacts on nearby residents and are hopefully fairly straight forward. We would also suggest that your client consults with the fire officer before carrying out work in relation to condition 2.

Please let us know if these suggested conditions are acceptable to your client.

Please note that Natasha is now on annual leave for approx. two weeks so please reply/contact me with any further comments/queries to hopefully enable us to resolve this without the need for a hearing.

Regards,
Louise

Mrs Louise Marshall
Senior Environmental Health Officer
Customers & Communities (Regulatory Services)
Tel: (01604) 837661
lmars@northampton.gov.uk

Northampton Borough Council
The Guildhall (1st Floor) St Giles Square, Northampton NN1 1DE

Regards,

Jon Payne
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On 9 Aug 2017, at 12:14, Natasha Stanley <nstanley@northampton.gov.uk> wrote:

Hello Mr Payne

Thank you for your email of yesterday:

In relation to the points you have raised, we have considered these and can respond as follows:

On Saturday and Sunday mornings, it could perhaps be agreed that the terminal hour will be 05:00, but other days 04:00. In practice, there is probably not a great deal of difference in the potential for disturbance at 5am compared to 4am.

We would argue from our experience of noise nuisance work, that there is a considerable degree of difference between public perception of noise at 5am, compared to 4am. This is based on the natural acoustic “background” climate, and proximity of noise sensitive dwellings. However we note from the site visit that the principle use of this premises is reported as a restaurant with occasional live music on specific celebration days. In this instance there is another possible route of promoting the objective of preventing public nuisance. This would be to limit the number of live music events to 12 per year (for example) or having a condition that holds live music to a certain finish time such as 2am, then requests recorded or background music until closing of the premises. This may allow use of the premises until 5am on a Saturday am or Sunday am if the potential impact of noise impact can be managed appropriately. It very much depends on the potential use of the property. We have suggested some potential conditions based on the use as reported on the site visit.

The use of ‘audible’ in a licence condition has judicial precedent as not appropriate, so the first two of your points could not legally stand as they are.

We would be prepared to remove the first condition as it requests measures that we do not consider maybe practicable for the DPS

I am told that this premises has already operated to 4 / 5am using Temporary Event Notices and there have been no issues arising.

We are aware of one TEN event only with a 5am finish time at this address, and a condition was offered, by the applicant, to prevent public nuisance on this TEN application which stated that live music would cease at 2am and only recorded music would be allowed thereafter, so we do not have a history of use of this premises until 5am, without appropriate public nuisance conditions. This obviously refers us back to our earlier comments regarding live music events (above)

As you know, it is the premises in question that need to be assessed and not issues that have arisen from others in the area. Despite this, my client is willing to replace the steel door at the back (I presume this is some form of security door with metal bars) for a wooden one with seals fitted. This will create four transitions of state (air-door-air-door-air) for sound travelling outwards, which will substantially reduce the potential for noise breakout.

In the absence of any issues with this premises, I would suggest that the cost of a sound limiter (which could be about £2,000) is probably not justified, especially if the work is done to the rear emergency exit door. I would therefore suggest that the first two of your proposals should be exchanged for "A second wooden door, fitted with seals to prevent noise breakout, shall be installed at the rear of the premises."

The structure of the premises will be looked at as part of the planning application that has recently arrived, and does not need to be replicated here. In relation to the noise limiter, this condition could be removed if events are few and far between and we can agree another form of preventing public nuisance, please see our suggestions outlined above, and in the amended schedule.

As you will have seen from your visit, the intention is to use the back door for emergency egress, so the condition requiring only the front door to be used could not be implemented without affecting the Fire Risk assessment. This likewise means that access has to be provided through the yard, which could in any case be legitimately 'used' for a non-licensable activity such as storage.

It is our intention that any conditions regarding the rear doors would include provision for use in emergencies, it is obviously licensable activity in the rear year area that causes concern due to the proximity of properties and operating hours. We have some suggested re-wording (attached)

There is no objection to providing a telephone number, so this is agreed. The log book, as I mentioned, has already been offered.

Already agreed

The final issue is that of the survey of the area. Given the nature of the premises and the absence of the condition on other licences - apart from one -

we would suggest that this is not necessary. If you did want some assessment to be carried out where there is regulated entertainment provided after 23:00, I suspect that this could be accommodated but in a more informal way. By way of an example: "Where regulated entertainment occurs after 23:00, the licence holder will arrange for occasional monitoring of the area to assess whether there is noise breakout". It would of course be foolish for any operator to identify a problem and then take no action.

We would argue that this condition is reasonable and not onerous, or costly to the business and should form part of the responsibilities of any DPS, with properties in residential properties in close proximity.

A have attached an amended schedule based on our above open dialogue, please can you copy my colleagues in on any response to this email as I am aware that the last date for responses is the 11th August and I work part time.

Best regards

*Natasha Stanley
Senior Environmental Health Officer
Northampton Borough Council
Tel: 01604 837772 dd*

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NN1 1DE
Tel: (01604) 837648; Main Switchboard: 0300 330 7000; Fax: (01604) 838755*

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Emma Powley

From: Stevens Chris <Chris.Stevens@northants.pnn.police.uk>
Sent: 07 August 2017 08:18
To: Jon Payne
Cc: Ormond Joy; Louise Faulkner; Eleanor Flannery
Subject: RE: Premises Application - Punjabi by Nature 126 Wellingborough Road Northampton

Good morning John,

I am happy with the proposed variation to the wording.

Thanks
Chris

Police Constable 1432 Chris Stevens
Northamptonshire Police Licensing Officer



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 Telephone 101 extension 345730

 Mobex: 778816 / 07557778816

 chris.stevens@northants.pnn.police.uk

From: Jon Payne [mailto:jp@licensinglawyers.co.uk]
Sent: 25 July 2017 15:51
To: Stevens Chris <Chris.Stevens@northants.pnn.police.uk>
Subject: Re: Premises Application - Punjabi by Nature 126 Wellingborough Road Northampton

Dear Chris,

I think we can probably agree a slight variation to your proposal ;

- 1) Customers must be instructed not take open vessels of alcohol from the premises at any time unless there is an authorisation such as a street café licence in place. (The previous drafting placed the requirement upon the customer, not the licence holder)
- 2) No children under the age of 18 will be allowed to enter or remain on the premises after 21.00 unless for the purposes of attendance at a pre-booked private function and in which case under the supervision of a person age no less than 21-year-old and in this case no later than 01:00hrs.
- 3) A minimum of one door supervisor must be on duty at the premises at all times after 23:30hrs when the premises is open to the public on every Friday and Saturday and also any Sunday that falls before a bank holiday Monday. (This are only a small premises and will have CCTV coverage. The danger is that too much door supervision presence may give the impression that it is more of a club, which could lead to problems)
- 4) All security staff must sign in via a register at the commencement of every duty. This register will contain the name, date of birth and full SIA badge number of each security staff member on duty. The register must be fully maintained and kept on the premises at all times and must be made available to an officer from a responsible authority upon reasonable request. Records must be retained for at least 6 months from the date of last entry. (NB The addition of the point that the 6 months is calculated from)
- 5) Door supervisors employed at the venue will wear hi-visibility outer garments or armbands at all times both when working inside and outside the venue.
- 6) The premises will have a dispersal plan in place that takes account of any advice provided by Northamptonshire

Police. This policy must include the staff/door staff encouraging and monitoring the safe and peaceful exit of customers from the venue and the immediate area outside. A record of this policy must be kept on the premises at all time and made available to an officer from a responsible authority upon reasonable request. ('Agreement' removed, as conditions by law have to be self-contained)

Regards,

Jon Payne

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On 17 Jul 2017, at 12:21, Stevens Chris <Chris.Stevens@northants.pnn.police.uk> wrote:

Good morning,

I have received the police copy of the above application. As the application currently stands, it is the opinion of Northants Police that the operating schedule is not sufficiently detailed enough to adequately promote the licensing objectives. That said I would ask that your client consider the following steps to be applied to the licence which the police believe will address this:

- 1) Customers must not take open vessels of alcohol from the premises at any time unless there is an authorisation such as a street café licence in place.
- 2) No children under the age of 18 will be allowed to enter or remain on the premises after 21.00 unless for the purposes of attendance at a pre-booked private function and in which case under the supervision of a person age no less than 21-year-old and in this case no later than 01:00hrs.
- 3) A minimum of two door supervisors must be on duty at the premises at all times after 23:30hrs when the premises is open to the public on every Friday and Saturday and also any Sunday that falls before a bank holiday Monday.
- 4) All security staff must sign in via a register at the commencement of every duty. This register will contain the name, date of birth and full SIA badge number of each security staff member on duty. The register must be fully maintained and kept on the premises at all times and must be made available to an officer from a responsible authority upon reasonable request. Records must be retained for at least 6 months.
- 5) Door supervisors employed at the venue will wear hi-visibility outer garments at all times both when working inside and outside the venue.
- 6) The premises will have a dispersal plan in place that is agreed with Northamptonshire Police. This policy must include the staff/door staff encouraging and monitoring the safe and peaceful exit of customers from the venue and the immediate area outside. A record of this policy must be kept on the premises at all time and made available to an officer from a responsible authority upon reasonable request.

I would be grateful for a return email confirming receipt and then a response to this once you have had chance to consult with the applicant.

Thanks
Chris

- 3)
- 4)
- 5)
- 6)

Police Constable 1432 Chris Stevens
Northamptonshire Police Licensing Officer
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