

NOTTINGHAM CITY COUNCIL
LICENSING PANEL C
RECORD OF PROCEEDINGS

1.	Date of hearing - 15 May 2015
2.	Panel - Councillor Ibrahim (Chair) - Councillor Choudhry - Councillor Wildgust
3.	Legal advisor & Note taker - Solicitor for the Council (ref KB) - Tanith Davis
4.	Applicant and application premises Vino O'Clock Limited Vino O'Clock 82 Mansfield Street Sherwood Nottingham NG5 4BN
5.	Nature of application - New premises license <u>Summary of proposals</u> <ul style="list-style-type: none"> • Sale by retail of alcohol Monday to Sunday from 09.00 hours to 23.30 hours. • Opening hours Monday to Sunday from 0.00 hours to 24.00 hours.
6.	Parties present (1) <u>For the Applicant</u> - Flavio Gonclaves (Licensee) and James Anderson (Solicitor) and Richard Bradley (Solicitor, observer) Poppleston Allen (2) <u>Other persons making representation</u> - John Hancock (Resident) Persons present refused permission to speak and reason why - none
7.	Parties not present and reason why – Councillor Ball notified the Licensing Authority on 15/5/2015 that he was unable to attend the hearing due to work commitments elsewhere.
8.	Applications and Decisions on ancillary issues e.g. requests for adjournments, determinations whether to proceed in absence, directions etc None
9.	Supplementary material taken into consideration other than that which was contained within the agenda None

<p>10.</p>	<p>Facts/Issues in dispute</p> <p>Whether the application promotes the following objectives:</p> <p>Issue 1: Prevention of Crime and Disorder Issue 2: Prevention of Public Nuisance Issue 3: Public Safety Issue 4: Protection of Children from Harm</p>
<p>11.</p>	<p>Decision</p> <p>The Panel listened to all the evidence put before it and also took into account the contents of the application and all representations and submissions made in relation to it and found as follows:</p> <ul style="list-style-type: none"> • The Applicant’s intention is to operate a business aimed at the upmarket end of the market, primarily to sell Portuguese wine, cheese and meat but not lagers / bitters; the cheapest wine will be £9.99 a bottle and there will be no “bargain booze” on sale. He does not intend to compete with the “bargain booze” type of retailers on Mansfield Road and the vast majority of sales will be over the internet or telephone (all other sales will be by pre-arranged appointments only). • The Applicant offered extra conditions, namely: No deliveries will be made after 23.00pm and no attendance by members of the public will be allowed after 23.00pm. • The Panel noted that there had been an incident when a fire engine had been unable to get through and in order to allay the residents’ concerns about the road being blocked, the Applicant assured the Panel that delivery wagons will be limited to three per month and that there was sufficient space on the forecourt to accommodate the delivery wagons. Motor cycles will also be used for deliveries, which was a concern for Mr Hancock due to the noise they emit, particularly revving on starting up; however, the Applicant told the Panel that he would only be using 125cc scooters with muffled sound to minimize noise nuisance. The Applicant confirmed that he would not employ any drivers under the age of 21 and that they would require a full B licence for motor-cycles and he that he would undertake DBS checks on his staff. Mr Hancock felt that this business should operate on the same hours as the other light industrial businesses (e.g. engineering firm / dental equipment manufacturer) in the area, which have planning conditions of operation between 07.00am and 18.00pm; however, the Applicant submitted that those businesses involved noisy operations within their premises, whereas the operations within his premises would be much quieter. • The Panel expressed concerns about disturbance to the residents as they felt that the proposed additional conditions were still not adequate to prevent noise nuisance. • The Panel also queried why the Applicant was seeking 24/7 opening hours whilst maintaining that he only intended to sell / supply alcohol from 09.00am to 23.00pm. The Applicant conceded that this was an anomaly in the application and agreed to match the opening hours to the public with the hours for the sale of alcohol; albeit this would not prevent the Applicant from continuing to work in the premises for office work purposes. • The Panel accepted that the Applicant did not have the same degree of control over the courier service that he intended to use for deliveries outside the Nottingham area, as he had in relation to those whom he employed for deliveries. • The Panel agreed that it was good for the area that the premises were being used rather than standing empty as this would help to promote the prevention of crime

and disorder licensing objective.

- The Panel noted that the Police and Susan Corrigan had withdrawn their representations because they felt that the conditions agreed between the Applicant and the Police would help to promote the licensing objectives.
- The Panel noted that the Applicant felt that he would be at a commercial disadvantage with the terminal hour being reduced to 22.30pm from 23.00pm; however, the Panel were concerned that the last delivery activities should be finished in time so that by 23.00pm, the residents would not be disturbed at all by the operation of this business.
- The Panel also noted the Applicant's assurances that he was open and willing to engage with local residents in the event of any complaints that they may have in future and that he would work with them to address their concerns.

Reasons:

Having regard to the Licensing Act 2003, S182 Guidance and the Licensing Policy, the Panel did not consider that the licensing objectives would be undermined by the granting of the application as the evidence indicated that the prevention of crime and disorder licensing objective would be promoted by granting the licence and the conditions should be sufficient to address the concerns about noise nuisance such that the prevention of public nuisance licensing objective would be promoted.

If problems arise in the future, an application for a review of the licence could be made.

The Panel were also mindful that the licensing regime is not the only way to address potential problems as other remedies are available e.g. action under other legislation for noise nuisance.

The application was therefore granted as follows:

The application was granted for the following licensable activities:

The application for the standard hours was granted but for more restricted hours namely:

The sale and supply of alcohol shall only take place between the hours the hours of 09.00 am and 22.30pm.

The licence shall be subject to the following conditions:

1. Mandatory Conditions under S19 of the Licensing Act 2003

1. No supply of alcohol may be made under this licence:
 - (a) at a time when there is no designated premises supervisor in respect of it or,
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his licence is suspended.
2. Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.
3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried out in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:

- (a) a holographic mark, or
- (b) an ultraviolet feature

S19(4) of the Licensing Act 2003

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price;
2. For the purposes of the condition set out in paragraph 1:
 - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
 - (b) "permitted price" is the price found by applying the formula $P = D + (D \times V)$ where:
 - (i) P is the permitted price;
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol;
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence:
 - (i) the holder of the premises licence;
 - (ii) the designated premises supervisor (if any) in respect of such a licence;
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994;
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny;
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax;

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on

the second day.

2. Agreed conditions as per the report - the conditions below were agreed with the Police in advance of the hearing:

1. The premises are only to be used for the storage and distribution of alcohol and other products for fulfilling of telephone orders, internet orders and orders placed at pre arranged appointments.
2. Other than visits made by a pre arranged appointment, the public shall have no access to the premises.
3. All sales/supplies of alcohol from the premises to customers arranged in person at or within the premises shall be restricted to pre-arranged appointments only.
4. A CCTV system with recording equipment shall be installed and maintained at the premises and operated with cameras. All recordings used in conjunction with CCTV shall:
 - be of evidential quality in all lighting conditions
 - indicate the correct time and date
 - be retained for a period of 31 consecutive days or one calendar month.

A member of staff trained to use the system shall be on duty at all times, as the recorded images must be made available for inspection and downloading within 24 hours following a reasonable request by the Police and officers of the Responsible Authorities, subject to statutory obligation.

5. All images downloaded from the CCTV system must be provided in a format that can be viewed on readily available equipment without the need for specialist software.
6. **[See below for the substituted condition].**
7. All alcohol is to be supplied in sealed containers.
8. A bound and sequentially paginated refusals book shall be kept of anyone refused service. Details to show: the basis for the refusal, the person making the decision to refuse and the date and time of the refusal. Such records are to be retained at the premises for at least one year and shall be made available for inspection and copying by the Police, or other officer of a Responsible Authority, immediately upon request.
9. A bound and sequentially paginated incident/accident book shall be kept to record all instances of disorder, damage to property and personal injury. This book shall be made available for inspection and copying by the Police, or other officer of a Responsible Authority, immediately upon request and all such books to be retained at the premises for at least 12 months.
10. A Challenge 25 scheme shall operate at the premises. Any person who appears to be under 25 years of age shall not be supplied alcohol unless they can produce an acceptable form of identification (passport, photo driving licence, PASS accredited card or HM Forces identity card).
11. Reasonable steps will be taken to recognise the rights of local residents and to encourage patrons to leave the premises quietly.

3. Conditions consistent with the operating schedule as per the report - these were incorporated in the conditions agreed with the Police.

4. Further conditions offered by the applicant at the hearing: the Applicant offered two further conditions as set out above in paragraph 11; however these were amended by the Panel as shown below.

5. Conditions imposed by the panel as follows:

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| | <ol style="list-style-type: none">1 Signage shall be displayed advising customers and delivery personnel to be respectful to residents and to leave the area in a quiet and orderly manner.2 No deliveries from the premises shall take place after 22.30pm3 No attendance at the premises by members of the public shall be permitted after 22.30pm.4 Deliveries to the premises shall only take place between 09.00am and 21.00pm.5 All sales / supplies / deliveries of alcohol shall be recorded in the form of a bound and sequentially paginated book or electronic record. A copy of each log or record shall be kept in the possession of and shall be completed by the delivery person employed by the Applicant when the delivery is made. The log / record will contain the following information:<ul style="list-style-type: none">- the name, address and age of the person placing the order- the time and date the alcohol was sold/supplied- whom it was supplied to with a signature from that person- the form of proof of age identification seen (where applicable)- basis for the refusal where the sale/supply of alcohol is refused.- Records will be retained at the premises for a period of 12 months and must be made available for immediate inspection and copying by the Police or officers of a Responsible Authority, immediately upon request. <p>Where new conditions were imposed the Panel was satisfied that it was appropriate to do so.</p> |
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Signed: Councillor Ibrahim (Chair)

Dated: 15 May 2015