

Written Submission from CGCA – Licensing Sub-Committee (3) – 15/09/22

Item 2 – The Nags Head - 22/06375/LIPV

The CGCA is unable to attend this hearing but is maintaining its Representation with respect to the amendment of Condition 20. We ask that you refuse then amendment to Condition 20 to allow an additional 30 minutes of drinking outside (until 23:30) for the reasons set out below.

The application has been modified since the CGCA’s original Representation (on P10-11 of the report). We had originally objected to the changes to the first-floor licence but given the amendments to this we are content with the proposed amended condition 13 and 16 given on P5.

The remaining amendment proposed is that of condition 20 which the applicant proposes to amend to allow drinking outside the premises to continue for an additional 30 minutes.

The CGCA maintains its view that this amendment should be refused. The premises is a pub, and the application is being considered under Policy PB1. The premises are in the CIZ where there is a presumption to refuse variation applications except under certain limited circumstances. The Policy states that:

The Licensing Authority considers that the grant of variations or new licences for pubs and bars in the West End Cumulative Impact Zone should be limited to exceptional circumstances.

The application also has to meet the requirement of PN1 which states that the criteria are:

The potential for nuisance associated with the style, characteristics and activities of the business to be carried out at the premises and the potential steps which would be taken to reduce the risk of nuisance occurring. This will particularly apply in areas of residential accommodation and where there is residential accommodation in proximity of the premises.

PN1 also makes specific reference to the need for applicants to take measures which are effective at:

Minimising and controlling noise from customers arriving at the premises, or open-air site outside it and departing from it including noise and other nuisance caused by customers’ transportation and how dispersal is managed

The Cumulative Impact Policy CIP1 is clear that:

Applicants for premises uses that have a presumption to refuse will be expected to demonstrate an exception as to why their licence application should be permitted.

The effect of amending Condition 20 is to allow people to drink outside the premises for an extra 30 minutes. Whilst the period is within Core Hours the impact on the area of people drinking outside the premises is significantly greater than that of people inside. This is why PN1 requires applicants to make measures to manage this.

It is up to the **applicant** to demonstrate that drinking outside for an extra 30 minutes, between 23:00 and 23:30, can be permitted whilst supporting the Licensing Objectives, including that related to

Public Nuisance, and not increasing Cumulative Impact within the CIZ. There has been no attempt to do this in the application or the mediation process. The Licensing Authority, in its Representation asked for additional submissions on this point, but none have been made.

In the pre-application advice (P16-20) the reason given for the removal of condition 20 (presumably given to Mr. Watson by the applicant) is “that they potentially restrict trade at the premises”. This is not a good reason to risk harm to the Licensing Objectives. There is a suggested condition, now included as Condition 25 on P44.

The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are properly supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.

The CGCA’s view is that this condition is not sufficient to support the Licensing Objectives and to prevent an increase in Cumulative Impact. The condition is subjective and difficult to enforce. The proposed extension of hours for the sale of alcohol will already allow more people to use the premises and so will, on its own, increase the impact. Allowing them also to drink outside for the extra 30 minutes proposed can do nothing other than increase this impact. Our experience is that it is not possible for the licence holder to ensure that no public nuisance.

Other Interested Parties make clear in their Representations that what happens outside the premises has a significant impact. We believe that permitting outside drinking for an additional 30 minutes, even with condition 25, will harm rather than support the Licensing Objectives.

We therefore ask that you refuse the request to amend this condition.

If you are minded to grant this amendment we then we ask that instead you leave condition 21 in place, as this will ensure that no additional people attend the premises during the extended hours. This will have the effect of reducing the impact of the extension of outside drinking by meaning that no more customers can attend the premises.

David Kaner
Chair – Licensing Sub-Committee