

Report To Licensing Sub-Committee
2 October 2012

Item
3

Report of Head of citywide services

Subject Licensing Act 2003: Application for review of
a premises licence: The Marlborough Arms
43 Spencer Street Norwich NR3 4PB

Purpose

Members are asked, in accordance with the delegation of licensing functions contained in the Norwich city council statement of licensing policy (Licensing Act 2003), to consider an application by Councillor Brociek-Coulton and Councillor Barker to review the premises licence in respect of The Marlborough Arms 43 Spencer Street Norwich NR3 4PB.

Recommendation

That members determine the review application in respect of The Marlborough Arms 43 Spencer Street Norwich NR3 4PB in accordance with the:

- Licensing Act 2003;
- Guidance issued under Section 182 of the Licensing Act 2003; and
- Norwich City Council Statement of Licensing Policy.

Financial Consequences

The financial consequences for this report are nil.

Corporate Objective/Service Plan Priority

The report helps to achieve the service plan priority of protecting the interests of the public through the administration of the licensing function.

Contact Officers

Ian Streeter

Phone No 212439

References

The Licensing Act 2003
Guidance issued under Section 182 of the Licensing Act 2003
Norwich City Council Statement of Licensing Policy

1.0 Licensing Act 2003 (The Act): Review Applications

1.1 The Act provides a mechanism by which, following the grant of a premises licence, a responsible authority (e.g. the police) or any other person (e.g. a resident living in the vicinity of the premises) may ask the licensing authority to 'review' the licence because of a matter(s) arising at the premises in connection with any of the four licensing objectives (the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm).

1.2 The licensing authority must advertise the review by displaying a notice at, on or near the site of the premises to which the application relates and at the main offices of the licensing authority. Notification of an application is also sent to properties within the vicinity of the application premises, in accordance with the policy previously agreed by the city council's Licensing committee.

1.3 The Act provides the licensing authority with a range of powers that it may exercise on determining a review, where it considers them appropriate for the promotion of the licensing objectives. However, the licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps appropriate to promote the licensing objectives.

1.4 Where a licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- To modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example by reducing the hours of opening or by requiring door supervisors at particular times;
- To exclude a licensable activity from the scope of the licence;
- To remove the Designated Premises Supervisor, for example, because they consider that the problems are the result of poor management;
- To suspend the licence for a period not exceeding three months; and
- To revoke the licence.

1.5 It should be noted that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months.

1.6 The following parties have a right of appeal to the Magistrates Court if they are aggrieved by the licensing authority's decision:

- the applicant for the review;
- the holder of the premises licence; and
- any other person who made relevant representations in relation to the application.

2.0 Application for Review

2.1 An application to review the Premises Licence in respect of The Marlborough Arms 43 Spencer Street Norwich NR3 4PB has been received from Councillor

Brociek-Coulton and Councillor Barker. A copy of the application and accompanying information is attached at Appendix A to the report.

2.2 The grounds for review fall under the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. No previous application for review has been received in respect of these premises.

2.3 The current premises licence allows the following licensable activities:

| | | |
|---------------------------|-----------|---------------|
| Sale by retail of alcohol | Every day | 00:00 - 00:00 |
| Recorded music | Every day | 00:00 - 00:00 |
| Late Night Refreshment | Every day | 23:00 - 05:00 |

2.4 The opening hours of the premises are:

| | |
|-----------|---------------|
| Monday | 00:00 - 00:00 |
| Tuesday | 00:00 - 00:00 |
| Wednesday | 00:00 - 00:00 |
| Thursday | 00:00 - 00:00 |
| Friday | 00:00 - 00:00 |
| Saturday | 00:00 - 00:00 |
| Sunday | 00:00 - 00:00 |

2.5 The current Premises Licence holders are Mr John Linford and Mrs Deborah Linford of Hill House 47 Buxton Road Frettenham Norfolk.

2.6 A copy of the current premises licence in respect of The Marlborough Arms is attached at Appendix B to the report.

3. Relevant Representations

3.1 The responses from the Responsible Authorities are as follows:

- Licensing authority – no representations.
- Police – response attached at Appendix C.
- Environmental health – response attached at Appendix D.
- Fire Officer – no representations.
- Health & safety – no representations.
- Planning Officer – no representations.
- Area Child Protection Committee – no representations.
- Trading Standards – no representations.
- Primary Care Trust – no representations

3.2 There have been six representations supporting the review application. These are attached to the report at Appendix E.

3.3 A site map of the area identifying the premises to which the application relates and detailing the addresses of the applicants and those parties supporting the application will be available at your meeting.

4.0 Norwich City Council Statement of Licensing Policy

4.1 Attached at Appendix F are the elements of the City Council's local Licensing Policy which are considered to have a bearing upon the application:

5.0 National Guidance (issued under section 182 of the Licensing Act 2003)

5.1 Attached at Appendix G are the elements of the National Guidance issued by the Secretary of State that are considered to have a bearing upon the application.

6.0 Summary

6.1 The Sub-Committee is obliged to determine this application with a view to promoting the licensing objectives which are:

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

6.2 In making its decision, the Sub-Committee is also obliged to have regard to guidance issued under Section 182 of the Licensing Act 2003 (National Guidance) and the Council's own local licensing policy. The Sub-Committee must also have regard to all of the representations made and the evidence it hears.

6.3 If, after considering the application and relevant evidence, action is considered necessary, the Sub-Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- To modify the conditions of the Premises Licence (which includes adding new conditions or any alteration or omission of an existing condition);
- To exclude a licensable activity from the scope of the licence;
- To suspend the licence for a period not exceeding three months; and
- To revoke the licence.

6.4 The Sub-Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.



NORWICH
City Council

Citywide Services
Public Protection (Licensing)
City Hall
St Peters Street
Norwich NR2 1NH

Organisational Development
07 AUG 2012
Post Room

52 (50m)
APPENDIX
A

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.

If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I ClIr Brociek-Coulton and ClIr Barker

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description

Marlborough Public House, 43 Spencer Street, Norwich.

Post town Norwich

Post code (if known) NR3 4PB

Name of premises licence holder or club holding club premises certificate (if known)

Number of premises licence or club premises certificate (if known)

Part 2 - Applicant details

I am

Please tick ✓
yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other Cllr
title
(for example, Rev)

Surname

Brociek-Coulton

First names

Julie Dawn

I am 18 years old or over

Please tick ✓ yes

Current postal address if different from premises address

159 Angel Road
Norwich
Norfolk
NR3 3HX

Post town

Norwich

Post Code

NR3 3HX

Daytime contact telephone number

07786694325

E-mail address (optional)

j.brociekcoulton@norwich.gov.uk

(B) DETAILS OF OTHER APPLICANT

| |
|---|
| Name and address Cllr Kevin Barker 170 Silver Road |
| Telephone number (if any) 07515434500 |
| E-mail address (optional) k.barker@cllr.norwich.gov.uk |

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

| |
|---|
| Name and address Norwich City Council Norwich |
| Telephone number (if any) |
| E-mail address (optional) j.brociekcoulton@cllr.norwich.gov.uk |

This application to review relates to the following licensing objective(s)

- Please tick one or more boxes ✓
- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 2)

I have had several complaints from the local residents about loud noise, a fight and people sitting outside on the benches until late. Getting louder and louder. They had told the residents to come and tell them if the music was too loud at the windows are never shut and the doors kept open. But when the residents spoke to them they more or less jeered at them. All we want is for them to be regulated so that they have to close windows and doors and people are not out late at night drinking on in a neighbourhood with such close houses.

Please provide as much information as possible to support the application (please read guidance note 3)

Residents have suffered a lot over the past few years with anti social behaviour outside the public house.

Drinking till late making lots of noise.

Windows and doors left open so that the kareoke can sound down the street as the Marlborough is on a hill.

Please tick ✓ yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day Month Year

| | | | | | | | | |
|--|--|--|--|--|--|--|--|--|
| | | | | | | | | |
|--|--|--|--|--|--|--|--|--|

If you have made representations before relating to the premises please state what they were and when you made them

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature Julie Brouek-Coulton AB Curker

Date 26/7/12 26/7/12

Capacity Councillor COUNCILLOR

| | |
|---|------------------|
| Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) | |
| Post town | Post Code |
| Telephone number (if any) | |
| If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) | |

Saturday 25th July 2012

Objection against the Marlborough Public House, Spencer Street from Cllrs Brociek-Coulton and Barker.

We are the local councillors for Sewell ward and have been approached by our local residents with concerns about the Marlborough Public House. I hope these will be taken into consideration when it goes to licensing Committee and please inform us so that one or both of us can be present on that day. The following concerns are:

- Loud music played (such as Karaoke) played until late into the night. Doors and windows wide open. Marlborough Public House is situated at the top of a hill and noise travels, making life impossible for many residents until the early hours of the morning. We know of at least three households who suffer from this.
- Tables outside used until late. Patrons very loud no consideration given to the residents at all. When residents have approached the pub in the past they have been laughed at by the manager.
- Have just received a letter from a neighbour nearby who has had a person from the pub in her garden totally drunk at 2am in the morning. This resident is a lady living on her own and is over 65 years of age. Residents should not have to put up with this.

There should be restricted times to this public house. And the pub should give more consideration to the residents. I know that the residents bought a house near the pub, but it didn't buy people fighting on their road, jeering at people passing down the street, and generally acting like they own the place. Please take notice of what the locals are saying they are the ones not only taking all of the noise but living it too.

From Cllrs Julie Brociek-Coulton and Cllr Kevin Barker.

APPENDIX B



NORWICH
City Council

Premises Licence Summary

Premises Licence Number

05/01752/PREMTR

Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

The Marlborough Arms
43 Spencer Street
Norwich
Norfolk
NR3 4PB

Telephone number 01603 443301

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence.

Late Night Refreshment
Sale by Retail of Alcohol
Recorded Music

The times the licence authorises the carrying out of licensable activities

| | | |
|---------------------------|-----------|---------------|
| Late Night Refreshment | Every Day | 23:00 - 05:00 |
| Sale by Retail of Alcohol | Every Day | 00:00 - 00:00 |
| Recorded Music | Every Day | 00:00 - 00:00 |

The opening hours of the premises

| | |
|-----------|---------------|
| Monday | 00:00 - 00:00 |
| Tuesday | 00:00 - 00:00 |
| Wednesday | 00:00 - 00:00 |
| Thursday | 00:00 - 00:00 |
| Friday | 00:00 - 00:00 |
| Saturday | 00:00 - 00:00 |
| Sunday | 00:00 - 00:00 |

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption on the Premise

Name, (registered) address of holder of premises licence

Mr John Russell Linford

Hill House
47 Buxton Road
Frettenham
Norfolk
NR12 7NH

Mrs Deborah Lynn Linford
Hill House
47 Buxton Road
Frettenham
Norfolk
NR12 7NH

Registered number of holder, for example company number, charity number (where applicable)

Name, designated premises supervisor where the premises licence authorises for the supply of alcohol

Miss Roberta Hughes

State whether access to the premises by children is restricted or prohibited

Annex 1 – Mandatory conditions

- 1 The following are not prohibited:
 - a) During the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
 - b) Consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;
 - c) The ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
 - d) The sale of alcohol to a trader or club for the purposes of the trade or club;
 - e) The sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
 - f) The taking of alcohol from the premises by a person residing there; or
 - g) The supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or
 - h) The supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.
- 2 No supply of alcohol may be made under a premises licence -
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- 3 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Annex 2 – Conditions consistent with the Operating Schedule

- 1 **The Prevention of Crime and Disorder**
- 2 The "No ID, No Sale" scheme will be operated
- 3 All staff will be instructed on policies regarding under age customers and the law relating to the sale/supply of alcohol.
- 4 Anyone who appears to be drunk or to have misused illegal substances will not be served. Anyone showing threatening behaviour will be ejected from the premises.
- 5 Shatterproof glassware will be used and all glasses and bottles will be cleared regularly.
- 6 **Public Safety**
- 7 Smoke extractor units will be used in the bars.
- 8 The necessary fire extinguishers, exits and lighting will be maintained.
- 9 Public Liability insurance will be in force
- 10 There will be suitable risk assessments undertaken
- 11 **The Prevention of Public Nuisance**
- 12 Background music to be kept at an acceptable level.
- 13 Deliveries and collections to be after 12.00.
Outside to be kept litter free.
- 14 **The Protection of Children From Harm**
- 15 The Portman Group Code of Practice will be operated.

Annex 3 – Conditions attached after a hearing by the licensing authority

- 1 There will be a maximum of 200 patrons.
- 2 Clear and legible notices will be displayed at exits and other circulatory areas requesting patrons to leave the premises having regard to the needs of local residents, in particular emphasising the need to refrain from shouting and slamming car doors. The sounding of car horns must also be discouraged.
- 3 There will be no new admissions after 23.30.

PREMISES PLAN - INFORMATION AND KEY:

LICENSABLE ACTIVITY - SALE BY RETAIL OF ALCOHOL

LOCATION OF LICENSABLE ACTIVITY -

AREA COVERED BY JUSTICE'S LICENSE -

LOCATION OF CONSUMPTION OF ALCOHOL -

GROUND FLOOR AREAS - 212.2msq

CIGARETTE VENDING MACHINE -

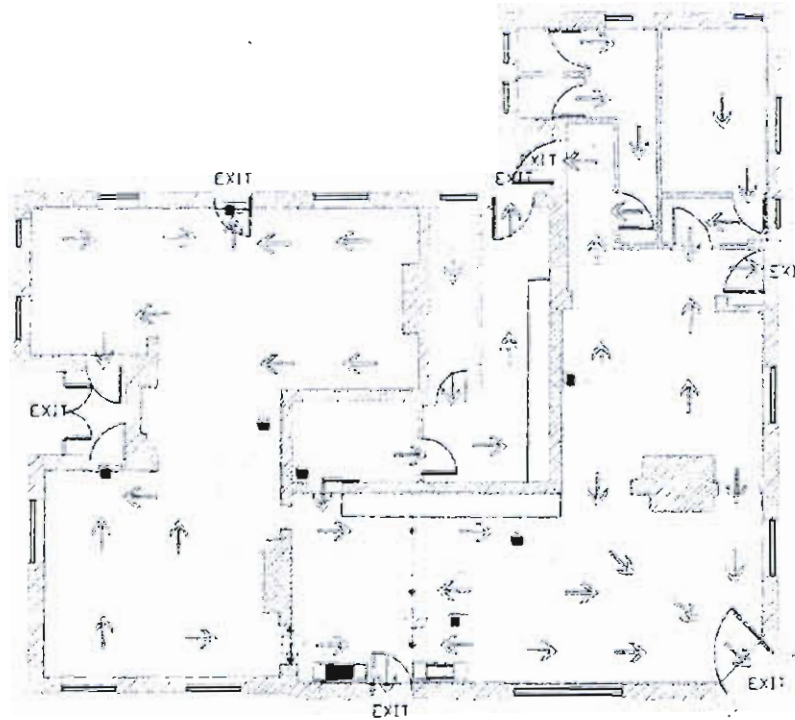
FRUIT MACHINE -

LOCATION OF PREMISES EXITS - EXIT

PUBLIC SAFETY:

THE PREMISES HAS A FIRE RISK ASSESSMENT AND HEALTH AND SAFETY RISK ASSESSMENT.

ANY DETAILS, IF ANY, IDENTIFYING COMPLIANCE WITH THE PUBLIC SAFETY LICENSING OBJECTIVE ARE INCLUDED IN THE OPERATING SCHEDULE.



EXISTING GROUND FLOOR PLAN



EXISTING GROUND SITE PLAN

PREMISES PLAN - FIRE KEY:

- Heat Detector
- Emergency Lighting
- Water Extinguisher
- Foam Extinguisher
- Dry Powder Extinguisher
- Chemical Extinguisher
- C O 2 Extinguisher
- Exit Sign
- Illuminated 'Exit' Sign
- Emergency 'Exit' Sign
- Illuminated 'Emergency Exit' Sign
- 'Exit' Sign With Directional Arrow
- Illuminated 'Exit' Sign With Arrow
- ← Escape Route

CHECKED BY:

REF: RMH021 DATE 20.06.05



WREYDON HOUSE
75 VERBA ROAD
B41 5SD-4111
NORWICH
NORFOLK
NR3 6DN

MARLBOROUGH ARMS MARLBOROUGH ROAD
NORWICH

DRAWN BY RMBALSEY

SHEET 1/3 SCALE 1:100



NORFOLK
CONSTABULARY
Our Priority is You

Mr Ian Streeter
Licensing Manager
Norwich City Council
St Peters Street
Norwich

The Licensing Team
Bethel Street Police Station
Norwich
Norfolk
NR2 1NN

Tel: 01603 276020
Fax: 01603 276025
Email: licensingteam@norfolk.pnn.police.uk
www.norfolk.police.uk
Non-Emergency Tel: 0845 456 4567

Date: 3rd September 2012

Dear Mr Streeter

Application to review Marlborough Arms – Spencer Street

I can confirm that we have received a copy of the application to review the premises licence for Marlborough Arms, 43 Spencer Street, Norwich.

The Police acknowledge that local residents have highlighted concerns in relation to patrons causing noise from sitting outside until late and noise from music due to windows and doors remaining open.

According to the Police innkeeper system, there have only been two recent incidents linked to the premises this year both were in January 2012. Following further enquires at the time with the management of the premises, management advised that that they now have CCTV installed to assist with preventing crime and disorder and to assist Police with any future criminal investigations.

There have been no further reports of incidents or complaints of noise received therefore the Police have no evidence to add to the residents request for a review. It is noted that the current Premises licence contains no conditions to restrict any noise nuisance from the premises and request that that the committee consider whether it is appropriate for these to be in place.

Yours faithfully,

Michelle Bartram
Licensing Officer



**NORWICH**
City Council

memorandum

To: Ian Streeter – Licensing Your ref:
From: Tony Shearman – Our ref: EH12/23202
 Environmental Protection
Date: 4th September 2012 cc:

Subject: Marlborough Arms, Review Application

Ian,

I have had an opportunity to assess the current review application for the above premises alongside the premises licence and would offer the following representation.

The current premises licence was issued in 2005 at the very beginning of the transition from the old licensing regime to the then new Licensing Act 2003.

At this time the licence was varied to allow the premises to open for 24 hours a day 7 days a week, to sell alcohol, undertake regulated entertainment in the form of recorded music and provide late night refreshment. At this time very little control was applied to the licence to prevent any impact on the licensing objectives.

I was not involved myself in the application at that time but am extremely surprised that the application went through with very little opposition from either the responsible authorities or local residents, as it would seem obvious that a 24/7 drinking establishment in the centre of such a residential area is entirely inappropriate and likely to lead to nuisance and disorder problems, irrespective of how well run the premises may be. Of particular note is that the building is very inadequately insulated and music and customer noise can easily be heard outside the premises even with the windows/doors closed, particularly later in the evening when the ambient noise levels drop.

During the time that the premises licence has been in force there have been a number of complaints from local residents, which I have condensed into the table below. The complaints mainly relate to music noise and disturbance from persons using the outside areas of the premises, either to the front or the rear.

As a result of complaints related to music noise, amplified music from the premises was assessed as a statutory nuisance and an abatement notice served on the licensees on 2008.

As a result of further complaints of noise and disturbance from the premises Michelle Bartram of Norfolk Constabulary and I met with the licensee, John Linford,

on the 21st June 2010. We explained our concerns regarding the inappropriate operating hours of the premises and the lack of noise control from both within and outside the premises and suggested some operating policies that could be adopted to minimise the impacts on the surrounding residents. A written copy of the suggestions was given to Mr Linford, who agreed that he would give them a try. I have attached a copy of the document below. These suggestions have also been communicated to the new manager/DPS of the premises, Roberta Smart, on the 18th June 2012, along with a reminder that karaoke is not authorised by the current premises licence. A copy of this letter is attached.

Taking into account the proximity of the venue to residential properties, the poor insulation of the building and the lack of control applied to the use of the outside areas of the property it is my opinion that the current premises licence is entirely inappropriate for this venue, and without radical change is always highly likely to impact very poorly on the licensing objectives, particularly regarding crime and disorder and public nuisance.

In order to bring the licence back to a more sensible footing I would suggest that the Licensing Sub-committee consider the following suggestions as permanent alterations to the premises licence.

1. Opening hours brought back to 0030 hours every day.
2. Sale of alcohol to finish at 0000 hours every day.
3. Provision of late night refreshment to finish at 0030 hours every day.
4. Recorded music to finish at 2300 hours.
5. Appropriate conditions applied to reflect the operating policies in the attached documentation that have already been communicated to the licensee.

Regards



Tony Shearman
Environmental Protection Officer

Marlborough Arms – Complaints History

| Date | Time | Nature of Complaint |
|-------------|-------------------|--|
| 30/6/08 | 22:00-23:20 | Music, shouting and swearing |
| 3/7/08 | 22:45-23:30 | Music, doors open and general noise |
| 8/7/08 | 02:15-02:30 | Loud shouting and banging of door |
| 10/7/08 | 22:45-23:25 | Loud music, general noise and shouting, swearing, doors open |
| 11/7/08 | 00:10-00:30 | Shouting and swearing outside. |
| 12/7/08 | 01:20-01:35 | Loud shouting, swearing, group of people standing outside |
| 12/7/08 | 03:10-03:25 | Group of people waiting outside pub – loud noise and yelling |
| 18/7/08 | 22:25 | Loud music and yelling from pub |
| 25-26/7/08 | 22:30-04:30 | Music in pub, people inside/outside making noise, shouting etc. Kept all awake |
| 13/6/09 | Until 00:30 | Loud music playing, doors and windows open. |
| 13/6/09 | Until 03:00 | Regular weekend problem. Lots of shouting, swearing and boisterous behaviour in garden |
| 14/6/09 | 12:00-16:00 | Loud drum and bass |
| 1/8/09 | 03:50 | Shouting and swearing, informant woken up. Increasing over last couple of weeks. |
| 8/8/09 | 22:05 | Loud music, karaoke, doors open. |
| 09/8/09 | Until 0600 | Loud music and noisy customers until 05:00 hours, fracas outside at 06:00 with shouting and smashing of pots/glasses and a window. |
| 14/8/09 | 01:00-03:30 | Uncontrollable laughter, smashing glass, foul language. |
| 15-16/8/09 | 23:30-02:00 | Disco evening, loud singing, clowning about. |
| 23/8/09 | 21:50 | Door wide open, people shouting and swearing. |
| 4/9/09 | 00:30-01:15 | Laughter/loud jeering |
| 10-11/9/09 | 20:30-01:00 | Laughter and shouting |
| 18-19/9/09 | 20:00-00:45 | Unpleasant mentality, laughing, jeering, screeching voices. |
| 26/2/10 | | People talking loudly and smoking outside pub. |
| 28-29/2/10 | 20:00-01:30 | Karaoke night, noise abated around midnight. People messing about on microphone until 01:30 |
| 3-4/4/10 | 20:00-00:00-03:30 | Rock band. Woken up at 03:30 by loud jeering, only had 3 hours sleep. |
| 21/5/10 | 23:15 | Loud music, lots of shouting, doors open since 20:00. |
| 23/5/10 | 22:41 | People outside singing, shouting from inside, windows open. |

| | | |
|----------|-------|--|
| 6/6/2010 | 02:55 | People gone back inside pub and now singing along to exceptionally loud music. |
| 12/6/10 | 23:20 | Loud music, shouting and unruly behaviour commenced about 1800. All external doors open allowing noise pollution ongoing at 23:20. |
| 13/6/10 | 05:30 | Singing now emerging from premises, ongoing from above, no sleep possible all night. |
| 23/6/10 | 19:08 | Large group of men using foul language in and around the Marlborough Arms. Caller has had to close windows despite the nice weather. |
| 27/6/10 | 2330 | Pub very noisy 18:30-22:30 then became quieter. Just after 2300 lots of people outside shouting and being a nuisance. |
| 3/7/10 | 2050 | Large group of men inside and outside the open doors shouting and causing a disturbance. |
| 8/8/10 | 18:45 | Group of people in doorway area, been getting louder throughout afternoon, very unpleasant language, caller has ad to close their windows, |
| 8/8/10 | 21:45 | Group of people in pub doorway. Shouting swearing, getting louder and more vulgar. Caller has had to close their windows. |
| 9/8/10 | 21:10 | Group of men outside pub in smoking area, yelling, swearing, very loud, drinking started at 15:00 hours today |
| 9/8/10 | 22:47 | Loud shouting, swearing, very foul language, pub doors wide open. |
| 5/9/10 | 22:23 | Very loud music |
| 12/9/10 | 18:05 | Live music, doors open |
| 9/10/10 | 23:09 | People outside making noise. |
| 23/10/10 | 23:55 | Loud live music since 20:00, still going on and upwards of 15 people outside shouting and swearing. |
| 5/3/11 | 23:15 | Live music since 2030, very loud and a regular thing. |
| 10/4/11 | 22:02 | Noise music, shouting, swearing. |
| 20/4/11 | 23:00 | Doors are wide open, people outside are being noisy and it has generally been very noisy all night. |
| 24/4/11 | 19:45 | Very loud music and shouting since 15:00 hours |
| 24/4/11 | 23:05 | Loud music, singing and shouting. Very loud even with doors closed. Gets louder every time someone comes out the back. |
| 4/5/2011 | 21:36 | Shouting from customers outside in doorway. |
| 8/5/11 | 17:20 | High level of vocal noise and incessant bad language, irritating for caller sitting out in his garden. |
| 29/5/11 | 19:03 | Loud noise, music and shouting. |
| 2/6/11 | 22:40 | Loud music and loud vulgar language. |
| 11/6/11 | 22:20 | Loud music. |
| 2/10/11 | 21:20 | LOUD NOISE FROM THE PUB, 3RD NIGHT IN A ROW NOW, SOUNDS OF SINGING, SHOUTING, SWEARING, GENERAL ROWDINESS |
| 23/10/11 | | excessive noise from the Marlborough pub that can be heard in my living room above the tv! this happens |

| | | |
|------------|-----------------|--|
| | | every week and Im fed up with it |
| 23/10/11 | 20:48 | Loud music, drumming? Bad karaoke, doors open all the time. |
| 23/10/11 | 22:03 | Loud music, singing, doors wide open, really loud. |
| 19/11/2011 | 23:55 | Very loud music since 21:00 and still going on, people coming in and out and causing problems in street. Cars damaged and alarms activated |
| 4/6/12 | 17:30- 23:20 | Loud music and microphone (karaoke?). Caller has had to shut windows, bad language from customers. |



NORWICH
City Council

Marlborough Arms

Meeting with joint premises licence holder John Linford, 10am 21st June 2010
to discuss ongoing complaints relating to music noise and noise from people
outside the premises

Suggested operating policy to minimise complaints

1. Customers to be prevented from drinking outside after 2230 hours
2. Tables and chairs to be removed from any outside area in use after 2230 hours
3. Reduced outside area available to customers after 2230 hours
4. All windows and doors closed after 2230 hours
5. All windows and doors closed whenever regulated entertainment is provided

THIS IS A COPY OF THE DOCUMENT HANDS TO JOHN
LINFORD AT THE ABOVE MEETING HE VERBALLY AGREES
TO TRY THE ABOVE POLICIES

TOM SHEARMAN.



Citywide Services
Public Protection (Environment)
Norwich City Council
City Hall
Norwich
NR2 1NH

The Marlborough Arms
43 Spencer Street
Norwich
Norfolk
NR3 4PB

FAO Roberta Smart

18TH JUNE
Tuesday, 04 September 2012

Your reference:

Our reference: EH08/35166

EH12/17184

Dear Mrs Smart

Marlborough Arms, 43 Spencer St – Noise Issues

Further to our telephone conversation on Friday please find below confirmation of some of the points discussed.

I can confirm that an abatement notice, served under the Environmental Protection Act 1990, is in force at the premises. This notice has been in place since August 2008 and requires abatement of noise in the form of amplified music. Should music be played at a level that is deemed a statutory nuisance under the act, this may constitute an offence. Any person found guilty of an offence under section 80(4) of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding £20,000.

We have recently received a complaint relating to Karaoke taking place at the venue. The premises licence, issued under the Licensing Act 2003, does not authorise karaoke and therefore this activity would be in contravention of the authorisation and an offence under section 136 of the Licensing Act 2003. A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £20,000, or to both.

Should the premises licence holder wish for the premises licence to cover karaoke, then a variation would need to be sought to include the licensable activity of 'provision of facilities for making music'. Alternatively Temporary Event Notices may be used to authorise activities not covered by the premises licence.

In order to address some of the previous complaints attributed to the premises, myself and the Police met with the premises licence holder, Mr Linford, in June 2010.

During this meeting I explained that in my opinion, the current premises licence was not restrictive enough considering the position of the venue and the hours that it were able to operate. I suggested to him that he should consider adopting the following operating policies, which if there were a review of the licence, I would insist on as minimum, along with a reduction of hours. As you are now the DPS at the premises I would urge you to also consider adopting them.

Suggested operating policy to minimise complaints

1. Customers to be prevented from drinking outside after 2230 hours
2. Tables and chairs to be removed from any outside area in use after 2230 hours
3. Reduced outside area available to customers after 2230 hours
4. All windows and doors closed after 2230 hours
5. All windows and doors closed whenever regulated entertainment is provided

I hope that this goes some way to explaining the situation at the premises but if you have any queries please feel free to contact me.

Yours sincerely

Tony Shearman
Environmental Protection Officer
Tel: 01603 2122178
Email: anthonyhearman@norwich.gov.uk

**Norwich City Council
Licensing Authority
Licensing Act 2003**



**NORWICH
City Council**

**Statement of support or objection to an application
for a premises licence**

| | |
|---|---|
| Your name/organisation name/name of body you represent (see note 1) | Caroline Taylor |
| Postal address | 48 Spencer Street norwich nr3 4pb |
| Email address | |
| Contact telephone number | |
| Address of the premises you wish to support or object to | 43 Marborough Arms Noriwch NR3 4PB |
| Your support or objection must relate to one of the four licensing objectives (see note 2) | |
| Licensing objective | Please set out your support or objections below. Please use separate sheets if necessary. |
| To prevent crime and disorder | I have lived at the above address for a year and consider the pub a friendly locals pub so do not believe the pub or its opening hours affect crime or disorder. I have been to the pub a few times and noticed several notes up asking to respect the neighbors and keep noise to a minimum. |
| Public safety | As a young female, i actually feel safer knowing people are about when im walking around the area. I do not see the pub as a threat to my safety, quite the opposite. |
| To prevent public nuisance | I live directly opposite the pub and always sleep with my window open and have not had any difficulties sleeping so don't see how the pub could be of a nuisance. Occasionally on a weekend they may have a band play but the noise level goes down after a certain time so this does not cause me any difficulties sleeping. |
| To protect children from harm | No comment - cannot see how the premises would be of harm to children, its more of a locals pub than a family one but then i also don't see many children around surrounding streets. |
| Please suggest any conditions which would alleviate your concerns | The one issue i sometimes have are from groups of people walking back from the city at very early hours. I know they haven't come from the pub because i have been woken a few times by noise and the pub has been |
| Signed: ctaylor | Date: 03/09/12 |

From MRS D WATKINSON
44 SPENCER STREET NORWICH NR3 4PB

You mention late night
Refreshment 23.00 - 05.00, for
recorded music 00.00, which
could follow, and sale of
Alcohol 00.00, and for times
of opening hours 00.00 - all
week, which doesn't seem right
when I know the times they open.
I've lived here for 52 years
seen different landlords and
the pub closed earlier than, I've
heard someone on the drums,
and singing till about 2 am. So
we don't need the pub opening
later. So again, I say No to this
Application for longer opening hours.

~~XXXXXXXXXXXX~~ P.T.O. I

Myself and neighbours live
quietly, so I don't think
we should have disturbance
from the Marlborough Arms
P.H.

23 AUG 2012

Post Room

Statement of support or objection to
an application for Review of a premises licence

| | |
|---|---|
| Your name/organisation name/name of body you represent (see note 1) | MRS J WATKINSON |
| Postal address | 44 Spencers Street NORWICH NORFOLK NR3 4PB |
| Email address | |
| Contact telephone number | 01603 234567 |
| Name of the premises | photo shows my front gate and Marlborough Pub, as I |
| Address of the premises | live opposite to it. |

Your support or objection must relate to one of the four Licensing Objectives (see note 2)

| Licensing Objective | Please set out your support or objections below. Please use separate sheets if necessary |
|---|---|
| To prevent crime and disorder | I object to this application for the Marlborough Arms & Co to be open till 5 a.m. |
| Public safety | I was woken at 2 a.m one morning by noise, someone was at my front door, saying people were after him, I phoned the police, and a young man, very drunk was laying on my garden. So other drinkers could come to this pub, and be drunk and noisy, too. And we don't want this. This is a residential area, people have young children, or go to work, or take children to school, so we need quiet nights. I live opposite the pub, sleep in the front bedroom so know when the pub closes etc. which is 12 o'clock, midnight, then people wait outside for taxis, talking laughing, or till they decide to go to their own homes. |
| To prevent public nuisance | |
| To protect children from harm | |
| Please suggest any conditions which would alleviate your concerns. The Pub should close earlier. | |

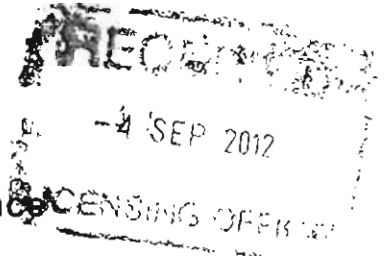
Signed: ~~[Signature]~~

Date: 21-8-12

Please see notes on reverse

RECEIVED
23 AUG 2012

Norwich City Council Licensing Authority
Licensing Act 2003



Statement of support or objection to
an application for Review of a premises licence

| | |
|---|----------------------------------|
| Your name/organisation name/name of body you represent (see note 1) | John White |
| Postal address | 82 Marlborough Road NR3 4PJ |
| Email address | XXXXXXXXXX@XXXXXXXXXX |
| Contact telephone number | XXXXXXXXXX |

| | |
|-------------------------|-------------------|
| Name of the premises | Marlborough Arms |
| Address of the premises | 43 Spencer Street |

Your support or objection must relate to one of the four Licensing Objectives (see note 2)

| Licensing Objective | Please set out your support or objections below. Please use separate sheets if necessary |
|-------------------------------|--|
| To prevent crime and disorder | - Patrons drink/driving after consuming alcohol. - urinating in alleyways |
| Public safety | Irregular parking by patrons, often on or across pavement. This causes pedestrians to divert onto road. |
| To prevent public nuisance | loud noise during late hours Doors left open allowing noise to filter outside Drunken patrons spilling onto street - noisy |
| To protect children from harm | Foul and abusive language from patrons - not directed at passers-by, but audible. Parking as above. |

| | |
|--|--|
| Please suggest any conditions which would alleviate your concerns. | 1) no patrons out front after 9pm - remove tables etc 2) signs on exterior - advising patrons to be quiet / consider neighbours 3) Advise Police of drink/drive issue. |
|--|--|

Signed:

Date: 01/09/12

Please see notes on reverse



Norwich City Council Licensing Authority
Licensing Act 2003

Organisational Development Unit
24 AUG 2012
Post Room

24 AUG 2012

Statement of support or objection to
an application for Review of a premises licence

| | |
|---|----------------|
| Your name/organisation name/name of body you represent (see note 1) | I WITTRICK |
| Postal address | 61 SPENCER ST |
| Email address | _____ NIC |
| Contact telephone number | _____ NIC |
| Name of the premises | MARLBOROUGH |
| Address of the premises | 43 SPENCER ST. |

Your support or objection must relate to one of the four Licensing Objectives (see note 2)

| Licensing Objective | Please set out your support or objections below. Please use separate sheets if necessary |
|-------------------------------|---|
| To prevent crime and disorder | |
| Public safety | |
| To prevent public nuisance | NOISE OUTSIDE PUB |
| To protect children from harm | WHEN USE OF ABUSIVE LANGUAGE WHEN FOOTBALL |

| | |
|--|----------------------------------|
| Please suggest any conditions which would alleviate your concerns. | HOURS NEED REVIEWING 24 hours |
|--|----------------------------------|

Signed:

Date: 22

Please see notes on reverse

RECEIVED
 21 AUG 2012
 LICENSING OFFICE

Norwich City Council Licensing Authority
 Licensing Act 2003

Organisational Development
 21 AUG 2012
 Post Room

**Statement of support or objection to
 an application for Review of a premises licence**

| | |
|---|---------------------------------------|
| Your name/organisation name/name of body you represent (see note 1) | Stefanie Zegawitz |
| Postal address | 72 Marlborough Rd Norwich, NR3 4PH |
| Email address | stefanie.zegawitz@bt.com |
| Contact telephone number | 01603 234567 |

| | |
|-------------------------|---------------------------------------|
| Name of the premises | Marlborough Arms PH |
| Address of the premises | 43 Spencer Street Norwich, NR3 4PB |

Your support or objection must relate to one of the four Licensing Objectives (see note 2)

| Licensing Objective | Please set out your support or objections below. Please use separate sheets if necessary |
|-------------------------------|--|
| To prevent crime and disorder | |
| Public safety | |
| To prevent public nuisance | I was woken up several times on the weekend in the middle of the night because of drunk costumers leaving the premises and |
| To protect children from harm | |

being very loud and noisy and shouting

| | |
|--|---|
| Please suggest any conditions which would alleviate your concerns. | shorter opening hours (until 10pm during the week, until 12pm midnight on the weekends) |
|--|---|

Signed: _____ Date: 19/08/12

Please see notes on reverse

APPENDIX F

Local Policy considerations

- 1.0 Introduction
- 1.4 The 2003 Act requires the Council to carry out its various licensing functions so as to promote the four licensing objectives. These are:
- The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance
 - The Protection of Children from Harm
- 1.5 The 2003 Act also requires that the Council publishes a ‘Statement of Licensing Policy’ that sets out the policies the Council will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.
- 4.1 “Responsible Authorities” will be asked to consider all applications and to make representations to the Council, if they relate to the promotion of the four licensing objectives and particularly in respect of applications which, might be regarded as contentious. Representations must be evidentially based and the organisation should attend any hearing when the application is being considered.
- 4.2 The Council will consider all representations from any “Interested Party” (see Appendix 7), or their representative, which should preferably be evidentially based and supported by attendance at any hearing at which the application is being considered.
- 4.3 A representation, will only be accepted by the Council if it is ‘relevant’, in that it must relate to the likely effect of granting the licence on the promotion of at least one of the four licensing objectives. Representation’s, which are regarded as being frivolous or vexatious, will not be considered, and in the case of a review of a licence, any representation which is regarded as repetitious, will also not be considered. A decision as to whether a representation is frivolous, vexatious or repetitive will be made by an officer of the Council.
- 5.0 Conditions attaching to Licences
- 5.1 Where relevant representations are made, the Council will make objective judgments as to whether conditions may need to be attached to the premises licence to secure achievement of the licensing objectives. Any conditions arising as a result of representations will primarily focus on the direct impact of the activities taking place at licensed premises, on those attending the premises, and members of the public living, working or engaged in normal

activity in the area concerned, and will cover matters that are within the control of individual licensees.

- 5.2 All applications will be considered on an individual basis and any condition attached to such a licence, will be tailored to each individual premises, in order to avoid the imposition of disproportionate or burdensome conditions on those premises. Therefore, mandatory conditions, will only be imposed where they are necessary for the promotion of the licensing objectives.

11.0 Reviews of Licences and Certificates

- 11.1 A Licence or Certificate will be reviewed if, valid representations are received by the Council. Where practicable, the Council will mediate between applicants, relevant statutory agencies and occupiers of nearby premises, local residents groups, community or interested groups where significant issues have arisen relating to a premises licence. Where possible, the Council will mediate by:

- Identifying potential issues for other relevant statutory agencies particularly regarding the safety and amenity of local residents.
- Negotiating, if possible, potential conditions to reflect resolutions of this mediation.

This process will not override the right of any interested party to ask that the Council consider their valid objections, or for any licence holder to decline to participate in a mediation meeting.

Where mediation is not practicable or fails, the Council will advise the parties of the provisions of the Act concerning a formal review of the licence.

- 11.2 Should Responsible Authorities and Interested Parties give early notice to licence holders of any concerns about problems identified at premises and of the need for improvement, requests for a review of any licence will only be sought if such notice has failed to resolve the matter or problem.
- 11.3 The Council expects that any Responsible Authority or Interested Party will provide an evidentiary basis to support their application for a review of a premises licence.

APPENDIX G

National Guidance (issued under section 182 of the Licensing Act 2003)

THE REVIEW PROCESS

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written application. The licensing authority may also agree in advance that the application need not be given in writing. However, these applications are outside the formal electronic application process and may not be submitted via Business Link or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at a premises and wants to intervene early without waiting for representations from other parties. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.

- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.
- 11.7 Any application for a review received by the licensing authority from responsible authorities and any other persons should be given due consideration and treated by the authority in precisely the same way, regardless of the body or individual which made it. This includes an application made by the local authority acting in a separate capacity (for example, environmental health or child protection).
- 11.8 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.9 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 13 of this Guidance.
- 11.10 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written representation. The licensing authority may also agree in advance that the representation need not be given in writing.
- 11.11 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, responsible authorities and any other persons in pursuit of common aims. Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence

holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

11.12 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

REPETITIOUS GROUNDS OF REVIEW

11.13 A repetitious ground is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
- representations considered by the licensing authority when the premises licence or certificate was granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

11.14 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.

11.15 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.

11.16 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the

provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

11.17 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.18 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.19 However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

11.20 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

11.21 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken

should generally be directed at these causes and should always be no more than an appropriate and proportionate response.

- 11.22 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.23 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.24 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.