



NORWICH
City Council

NORWICH CITY COUNCIL

NOTICE OF DETERMINATION

Notice of Determination in respect of a remote hearing by the Licensing Sub Committee of Norwich City Council in respect of Bedfords, 1 Old Post Office Yard, Norwich, Norfolk.

Committee dates – 12 February, 15 February and 17 February 2021. Hearings held remotely under SI 2020

12 February – hearing evidence.

15 February – considering evidence in private

17 February – notification of decision.

Members of committee present on all dates– Councillors Stutely (Chair), Ackroyd and Youssef.

Other persons present on 12 February: Mr Bruce Faulkner, solicitor, representing the premises licence holder. Mr Glen Carr, premises licence holder and designated premises supervisor (DPS). Mr Jonathan Carr, premises manager. P.C. Richard Spinks and Michelle Bartram, Norfolk Constabulary. Tiffany Bentley and Lucy Palmer of NCC. Callum Weaver of NCC providing technical support. David Lowens, nplaw (Norfolk County Council), providing legal advice to committee. Sarah Moss and Jennifer Batten, nplaw, observing. Richard Divey representing the public protection section of Norwich City Council, applicant for the review.

Summary of 12 February hearing

1. There were no declarations of interest and no apologies for absence.
2. The Chair ensured that all present were able to hear and be heard prior to the meeting commencing. It was confirmed that there were no additional papers to consider beyond those circulated in advance of committee.
3. Tiffany Bentley presented the report. The application referred to the licensing objectives of the prevention of crime and disorder and the promotion of public safety. Responses to the review application had been received from the Norfolk Constabulary and the Norfolk Fire and Rescue Service.
4. The legal advisor addressed committee regarding the factors to be taken into account on a review, in accordance with the s182 guidance.

5. Richard Divey addressed committee. The council had received complaints from members of the public regarding activities at the premises on the 4th November 2020. Social media footage had been provided, showing a party with dancing on tables, close contact between customers and staff and no social distancing taking place. Mr Divey mentioned Mr Carr's email of 11 November where admissions were made. Footage showed Mr Glen Carr and Mr Jonathan Carr were present.
6. The only CCTV footage available was partial, up to around 9pm. The CCTV showed the main bar area, showing staff hugging each other and customers. In Mr Divey's opinion the footage showed mixing of groups of more than six persons, persons moving between tables and no attempt to control customer locations following entry. He said there was almost no mask wearing by staff when in close contact with customers.
7. Mr Divey confirmed that on inspection visits appropriate covid measures had been seen.
8. The police had brought to the council's attention a lack of social distancing of customers in the vicinity of the premises on the 23rd December, being a date after the review was applied for.
9. Mr Divey confirmed that historically the premises' management have a very good record, the business appeared well controlled in the past. There have been two visits by the police without incident. There have also been complaints regarding the premises after the first lockdown.
10. Mr Divey referred committee to the local policy paragraphs 20.2, 20.3 and 20.4 and suggested the premises licence holder and other management had failed to provide effective and responsible management on 4th November. Mr Divey referred to the national guidance 11.24 onwards dealing with reviews arising in connection with crime and suggested the public health failures shown were as serious as the illustrations of criminal activity shown in 11.27 and should be given equivalent weight. The general population had been put at risk and revocation of the licence should be considered even at first instance.
11. Michelle Bartram of the Norfolk Constabulary addressed committee. The police supported this review. The footage on social media was significant. Singing, hugging and dancing had occurred as if the pandemic had not been happening. Face coverings were not worn and there was no social distancing. At no point did staff turn off the music, raise the lights or call for this to stop. The general manager, Mr Jonathan Carr, is seen in the middle of a group all of whom are behaving irresponsibly. Prior to 9pm footage shows staff members downing shots at the bar.

12. Ms Bartram mentioned that despite the ongoing review there had been a further cause for concern on the 23rd December 2020 where an incident had started outside the premises. There was concern that the venue management had not called the police. It supported the police view of a lack of control over patrons by the management and a lack of responsibility.
13. Ms Bartram confirmed that Mr G Carr had provided CCTV footage to the police in the past and assisted police. However not to be provided with all the footage of the 4th November was suspicious. It was confirmed that this was not a breach of licence conditions due to the wording of the CCTV condition.
14. The level of disregard for covid precautions shown on the 4th November had increased the threat to life of those at the premises and the general public. The police thought it a serious breach.
15. Mr Bruce Faulkner addressed committee. It was accepted by the premises licence holder that there was a breach towards the end of the night of the 4th November 2020. It was the last night before lockdown. For most of the evening there were no issues and proper social distancing took place. Towards the end, for a period of 25 to 30 minutes, there was dancing and a lack of social distancing. People started to get up and dance. Mr G Carr and his doorman made the decision that it was better to let things play out than to try to stop it. In hindsight this was wrong. Steps such as turning the music off may have made an impact but was not guaranteed as customers were determined to enjoy themselves. Regarding Mr Jonathan Carr, he strongly denied leading the singing and dancing but agreed that at the end of the evening he got carried away. The footage showing him drinking from a bottle was following close of business. Regarding the 23rd December incident, that occurred after the premises had closed with persons wishing to shelter from the rain whilst waiting for taxis. The altercation did not happen at Bedfords.
16. Mr Faulkner noted that Mr G Carr had been at the premises since 2013, the premises had been well run with no issues of concern to the police or licensing team. With reference to the police chronology included in the agenda papers, everything had been found to be fine in the majority of these incidents. Mr Faulkner reviewed the chronology incidents noting that on the 31st October the police had found everything to be in order. The 23rd December incident partially involved persons who had not attended the premises and who were sheltering from the rain.
17. Mr Faulkner mentioned the efforts made regarding covid precautions, with track and trace, signage about social distancing, separation of tables, a 56 persons limit upstairs and a one-way system regarding the toilets being introduced. Bedfords had always sought advice where necessary.

18. Mr Faulkner noted that a lot of the greetings on the 4th November was between staff, several of whom had medical dispensations for mask wearing including Mr G Carr. The premises are well run and revocation would be disproportionate in the circumstances.
19. Mr G Carr addressed committee, noting that his premises had been the busiest in Norwich throughout the covid emergency. Government rules had changed so regularly it was difficult to work out what he could and could not do. The incident of 4th November had been a misjudgement. There were 16 cameras on site but unfortunately a change to their operation to continuous recording had reduced the footage to 14 days and footage for the entire evening was unavailable as having been taped over. Complaints from three other venues had brought on this review. When the police and licencing team had visited everything had been in order. Mr Carr mentioned he had been a doorman for 32 years and on the evening of 4th November he had judged it safer to let his customers continue and then disperse without any intervention. He dealt with trouble at his premises himself rather than involve the police.
20. Cllr Ackroyd noted that it was said he addressed the room and asked when this took place. Mr G Carr believed this was within 9 pm to 9:30 pm but he could not remember precisely.
21. The Chair asked Mr G Carr about his options on the 4th November. He responded that he could have turned off the music, turned up the lights, and asked people to sit down from the stage area but he mentioned again that he thought that he would cause himself and his staff more problems if he had done so. Mr G Carr then mentioned his family responsibilities. He agreed he could have closed earlier. At the time of closing on the 4th November persons had dispersed without issue.
22. Mr G Carr then responded to questions from the Chair regarding the operating schedule of the premises. He was unable to answer as to when the last training session for staff took place, noting that his staff change regularly. Most training was done on the job. There had been no recent training in crime prevention or health and safety. A risk assessment had been completed in July and September 2019 and fire safety training was being organised. He confirmed to committee that he imposed a strong line on drug use, with anyone found dealing or using drugs being ejected from the premises and permanently barred.
23. There were up to 14 members of staff, with bar staff carrying radios. Mr G Carr maintained his SIA authorisation. He suggested that the police had not attended his premises once in seven years for any trouble, prior to the 23rd December incident. Ambulances were called where necessary but on the assault incident the person had not wanted the police to be called.
24. Ms Bartram noted the view of the police that they should be called to an incident to assist with any investigation. Mr G Carr expressed his view that the police

never turned up in time to do anything and that he was doing a public service by not calling the police. He would however call police for a stabbing incident.

25. Mr Faulkner noted the incident on the 23rd December took place in Exchange Street, not in the premises.
26. Discussion took place regarding noise issues and the noise attenuation of the premises building but it was flagged that noise issues were not part of the review application.
27. Mr Carr addressed committee regarding controls of underage drinking.
28. Mr G Carr was asked by committee what covid legislation was in place on the 4th November. Mr G Carr responded that he was aware of the requirement of social distancing of two metres, six persons in the same bubble, masks to be worn when standing up and walking through the premises and a curfew. He was aware also of the need for persons to be seated.
29. Mr G Carr mentioned that between July and 23 December 2020 he believed his venue was one of the safest in the city. He believed his customers had behaved exceptionally well. This was borne out by the police visits, they found nothing wrong.
30. Mr G Carr was asked by the Chair what procedures were used when someone was breaching the rules. He responded that customers were not to approach the bar, all staff were instructed to get them to sit. Customers were generally well behaved but he estimated that ten per cent did not care to follow the covid regulations.
31. Mr R Divey confirmed that Mr G Carr had been one of the few licensees who had sought advice about the covid legislation.
32. Following advice from the legal advisor about the public interest test under the hearing regulations the committee then determined to exclude the public when considering the remaining evidence.
33. CCTV footage was played to committee.
34. Mr R Divey noted from the CCTV which finished at 20.59 that:
 - When staff turned up for work they hugged with no social distancing
 - Mr G Carr was shown hugging two members of staff. If a person was exempt from wearing a face mask close contact with customers or other staff should have been avoided.
 - Two tables of persons joined, forming a group of nine who faced each other.
 - There was mingling and a lack of staff control over the group of nine persons.

- Five members of staff without face masks were noted behind the bar at one point, Mr G Carr agreed that of these only Mr J Carr had an exemption from wearing a mask.
 - Shots were lined up on the bar and a race took place to drink them by two members of staff including Mr J Carr, followed by rapid drinking of a bottle of beer.
 - It was noted that a member of staff who was not wearing a mask leaned towards members of the public when taking orders and was in close contact.
35. Mr Faulkner noted the difficulty in being clear whether the groups at the top right of the screen were indeed mingling and that the distance between tables was unclear.
 36. Mr Divey's view was that the legislation was not being ignored but was not fully enforced.
 37. Mr G Carr noted that tables were cleaned, toilets were cleaned and sanitiser points were available.
 38. Mr G Carr was asked about a member of staff shown without a mask whilst being in close proximity to customers. This member of staff was not exempt from mask wearing but Mr Carr said it was his choice not to wear a mask.
 39. In response to a question from Cllr Youssef about staff and face mask wearing Mr G Carr said that whilst he reminded members of staff to do so he was not in a position to force them to wear face masks.
 40. Mr G Carr was asked what the policy was about staff drinking. He stated that his staff were allowed to have an alcoholic drink through the night but should move away from the bar when drinking.
 41. Mr Divey noted that whilst not a part of the review it could be an offence to encourage the speedy consumption of alcoholic drinks and that it was poor practice.
 42. Ms Bartram noted that staff consuming alcohol ran the risk of this affecting their judgement, for example the challenging of persons who appeared underage, and the consumption of shots gave the wrong impression.
 43. When asked by the Chair whether just the video matters shown would be grounds for a review Mr Divey said no, it would have prompted advice.
 44. Committee then viewed social media footage and details including commentary.
 45. Mr Faulkner confirmed that it was agreed the footage was of the evening of 4th November and was of the premises.

46. Mr Divey noted the footage showed no mask wearing, persons dancing and hugging, standing in close contact, and Mr Jonathan Carr, manager, taking part.
47. Mr J Carr confirmed he was included in the footage.
48. Mr Divey believed Mr G Carr was also present.
49. The Chair noted that three separate songs were heard but Mr G Carr noted that D.J.s did not play full songs and suggested fifteen to twenty minutes of dancing in total. Further comments from Mr G Carr noted the dancing starting at about 9:35pm and finishing at 10pm.
50. Mr J Carr confirmed that he had followed his father's lead regarding the behaviour of customers.
51. The committee was then provided with a video of the alleyway by Bedfords on the evening of the 23rd December 2020. This was the street entrance area to Bedfords.
52. P.C. Spinks addressed committee and mentioned the 2020 CAD system showed seven calls to Bedfords, three made by Mr G Carr being incidents of a burglary, homeless persons and an active incident of a male ejected on 12.07.20 where police attended and arrested the male person. Mr Carr was one of the victims on that occasion.
53. The incident on the 23rd December starts just outside the premises, in an area which Mr G Carr uses as control on entry to Bedfords by placing a barrier on the highway. The police suggested the area is treated in practical terms as part of the premises. The police were called by an ambulance team and not by Bedfords. Customers are congregating closely together, members of staff present do not try to move customers along.
54. Mr Faulkner noted that the use of the area has only started since the pandemic and that the incident described had happened over half an hour after the premises had closed. Mr G Carr and inside staff were not aware of the incident, being involved in cleaning up after the premises had closed.
55. Mr Divey noted his concerns that neither customers nor staff were shown socially distancing.
56. Mr G Carr responded to Cllr Youssef regarding his dispersal policy but noted that this evening was very wet. The normal habit is to move persons away into the road.

57. Ms Bartram noted that the interior CCTV showed a serious offence but that she did not think what was seen was routine. The staff were young and more relaxed about covid risks.
58. Mr Divey noted that without full CCTV it was not possible to confirm or deny how long the serious incident had lasted.
59. Mr G Carr addressed committee, noting that the 4th November was an isolated incident where he had made the wrong decision.
60. Mr Faulkner noted that the CCTV controls had now been amended to record on movement only, so should record for a longer period.
61. Mr G Carr explained the CCTV footage had been reduced from 31 to 14 days by choosing to record continuously after a burglary which had taken place a week before the 4th November, he had not downloaded footage beyond the 2 hours provided due to being a busy man who had been incapacitated for two weeks following the recording of the first two hours. When he returned to the task the remaining footage had been recorded over and was unavailable. He had supplied CCTV in the past, this was just an unfortunate situation. When asked whether his son could not have done the remaining downloading he responded that Jonathan's job was to get the premises ready for business and he did not wish to delegate the job of providing CCTV footage.
62. Mr G Carr was asked what the customer behaviour on the 4th November was like between 9pm and 9:35 pm, Mr G Carr responded that customers were reasonably well behaved and the circumstances were effectively the same as shown on the CCTV provided. He was unable to say what prompted the behaviour shown on the social media footage. He suggested that it may have been due to grievances about government controls and frustration about the impending lockdown but he could not say exactly how the situation had unfolded.
63. Mr J Carr noted that the only period of dancing he was involved in was very short, when the premises were about to close.
64. Mr G Carr noted that this was not a case of breaking conditions to make money. It would have been a normal night, if persons had not behaved as they did.
65. The Chair noted that staff were not adhering to social distancing and this seemed to be routine. Mr G Carr said that hugging of staff is in the family spirit of Bedfords. The Chair noted that face masks were not worn.
66. Mr G Carr noted that he would review the covid risk assessment moving forward. He accepted that he had made a poor decision on the 4th November and would

be more mindful going forwards. He had been honest throughout the investigation.

67. Mr Faulkner summed up for the premises licence holder, noting that the venue takes covid controls seriously, inspections have been positive and the business has a very good record. Social media needed to be treated with caution as it is difficult to know the context. The incident of 23 December took place on the public highway and a long time after the premises closed, the members of the public not being the responsibility of the venue at that point.

Decision of committee

68. The decision of committee is to revoke the premises licence. This is considered an appropriate step for the promotion of the licensing objectives for the reasons given below.

Reasons for the committee's decision

69. Committee notes that the activities of the 4th November 2020 took place the day before a national lockdown came into effect. The national lockdown was imposed due to an escalating public health emergency and was designed to try to mitigate an exceptionally dangerous situation.
70. Committee notes that interior spaces where there is mixing of households is a high-risk environment for virus transmission and that some persons can be asymptomatic.
71. The committee accepts the evidence of Mr Divey regarding the matters of concern shown on the CCTV footage and believes that there was mixing between groups which the management of the premises did not prevent and did not control once it had occurred.
72. CCTV images show that there were staff members who did not wear masks even when they were in proximity with each other and with members of the public. Physical contact took place between persons not wearing masks including contact involving the premises licence holder. Social distancing measures were not enforced. Staff did not enforce the wearing of masks where it would have been appropriate to do so. These matters were noted in the CCTV footage of the early evening and in social media footage. Both the premises licence holder/DPS and the manager were present during these events. CCTV footage at one point shows five staff members behind the bar, none of whom were wearing masks and it is understood that of the group only one person, Mr Jonathan Carr, had an exemption.

73. The committee finds that there have been breaches of the covid regulations at the premises taking account of events taking place earlier in the evening of the 4th November 2020 and during a period partially shown in social media footage which the premises licence holder estimated as twenty five minutes in length, said to be at the close of the evening.
74. These breaches are the failure of staff providing services to wear face coverings whilst in close contact with members of the public, failure to ensure that customers remained appropriately seated and the failure to take reasonable measures to ensure that persons from one group did not join another group. These breaches damaged the public safety licensing objective.
75. The committee notes that s182 statutory guidance regarding public safety and the mention that this concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation (para 2.7). In the context of a virus pandemic which can have fatal consequences the committee believes that the risk of deadly virus transmission falls within concerns as to physical safety includes the prevention of accidents and injuries (para 2.7).
76. The social media footage shows extreme behaviour causing significant transmission risk. This was permitted to happen without management taking any preventative or mitigating action.
77. Committee regrets that of the 16 cameras said to be present at the premises only footage from one internal camera is available and that is for a limited period to 20:59 on the 4th November, due to footage not being accessed and downloaded prior to being taped over and thus lost.
78. The committee has been informed that the premises licence holder believed that it was safest to allow the behaviour shown on social media footage to play itself out rather than to intervene. The committee does not accept this. The committee also does not accept that the wearing of masks by employees is an individual choice which the management cannot control as suggested by the premises licence holder, noting the health and safety implications and the employment powers available.
79. The social media footage shows a party atmosphere rather than a threatening atmosphere and there appears to be no good reason why the management should believe that the behaviour shown, if controlled/prevented, would likely lead to violence or other disturbance. The management had available adequate numbers of staff to intervene safely, had control of the light levels and had control of the music volume. Lights could have been raised, music levels could

have been reduced and staff could have intervened to prevent or mitigate what was a serious public safety emergency.

80. The committee believes that the management of the premises significantly failed in their obligations to comply with covid regulations and failed to promote the public safety licensing objective and that no reasonable explanation for their failure to act has been provided. The failure to take appropriate action involved both the premises licence holder and the manager as well as by other staff members.
81. Committee has considered the good record of the premises and its management. It has considered the human rights implications in its decision to revoke the licence. The committee notes that this is a balancing exercise but believes the overriding public interest in promoting the licensing objectives of the prevention of crime and disorder and the promotion of public safety require revocation as an appropriate and proportionate response and these outweigh the personal interests of the premises licence holder.
82. Committee is aware that it should direct its actions at the causes of concern. The decision should be no more than an appropriate and proportionate response to address the causes of concern that instigated the review (para 11.20 s182 guidance). Committee notes the public safety and covid control failures noted on the 4th November and believes that the failure to ensure appropriate mask wearing and social distancing between persons are systematic of the way these premises are run even if the activities shown on social media footage on the 4th November are unusual in severity. Committee believes that these failures of management occur beyond the DPS.
83. Committee are concerned that both Mr G Carr and Mr J Carr did not fully understand the potential public safety consequences of the behaviours shown on the 4th November. That concern remains following the evidence heard and responses given during the committee hearing. The committee does not have confidence in the DPS and general management regarding future behaviour and support for the licensing objectives.
84. Committee has taken account of the s182 guidance regarding crime prevention. Committee feels that the compliance failures found should be taken particularly seriously in the context of the current emergency and that deterrence is an appropriate objective when the crime prevention licensing objective is engaged. Other premises need to be deterred from similar management failures if the public safety licensing objective and the prevention of crime and disorder are to be adequately promoted.
85. The committee has not given weight to the comments on social media, the context being unclear, and has not given weight to the matters noted on the 23rd

December noting that these police concerns related to behaviour when the premises were no longer open and which took place outside the premises.

86. The committee has considered both its local policy and national guidance.

Rights of appeal

87. Rights of appeal are set out in Schedule 5 of the Licensing Act 2003. Any appeal should be raised with a magistrates' court within 21 days of receipt of the written decision appealed against.

Signed..........Chair, Licensing Sub-Committee.

Dated 17 February 2021