



NORWICH
City Council

NOTICE OF DETERMINATION

Date of Committee: Wednesday 14 November 2018

Application for the variation of a premises licence under the Licensing Act 2003

Name of Applicant: Three Arches Brewing Limited (company no.11087293)

Name and postal address of premises: Redwell Brewery, 7 The Arches, Bracondale, Norwich, Norfolk NR1 2ED

Members of Licensing Sub-Committee: Councillors Maxwell (Chair); Brociek-Coulton and Ackroyd

Other persons present: Mr T Cary and Mr T Thakkar of Leathes Prior representing the applicant company, Ben Handford, Diane Neville-James, Amy Hancock, Glen Carr and Alura Handford for the applicant company, Dinah John, Marion Catlin, Guy Peryer, Andrew Fearnley Smith, Feride Dincer and Richard Pearson being objectors, Cllr Stewart (representing Sally Wilson), Cllr Price (representing Ms M Comerford, James Rose, Pilar Rose-Alcorta and Ms White), Maxine Fuller of Norwich City Council licensing team, D Lowens and L Hall of Nplaw, Rebecca Robinson (observing).

Prior to the start of committee coloured photographs showing customers in the outside area during an event were circulated. A plan showing the location of the site and the location of residents who had made representations was available at committee.

There were no declarations of interest.

NOTES OF HEARING:

Mr Cary addressed the committee stating that this was an application to vary a premises licence granted in 2013 to make minor changes to permitted hours at weekends and to introduce the licensable activity of films. It was an application for an additional 6 hours of licensable activities per week, being on Friday and Saturday and sought extension from 21:00 closing to 23:00 closing and on Sunday an extension from 20:00 closing to 22:00 closing.

Mr Cary confirmed that the proposed variation regarding Monday to Thursday inclusive was withdrawn.

This was a craft brewery, concerned with the manufacture and supply of beer. In 2017 the previous company went into administration. The applicant wished to build up the brewery and there was no intention to have a 7 day a week pub. Mr Cary mentioned the

charitable side of the business and that the clientele of the business tended to be older persons. He described the area of the premises as industrial and gave details regarding local businesses and noted the railway line. Those who objected to the variation lived in the vicinity but none who lived in Trowse had done so. The site was well adapted to the purpose and the business wished to engage with the community. None of the responsible authorities had objected to the proposed variation and he suggested this was relevant regarding the police and concerns about crime and disorder and relevant regarding the environmental health department and concerns about noise nuisance. The business would be put in jeopardy if the proposals were not successful. Mr Cary suggested the proposals met the licensing objectives and noted that damage to the value of local properties was not relevant. The clientele attracted were unlikely to be troublesome. Door staff were employed at weekends but had little to do. It was accepted that the business could be noisy, but Mr Cary noted there were no measurements of noise given by any complainant and the business was happy not to supply alcohol in the outside area after 9pm.

Dinah John told the councillors that this was a residential area with some light industrial units and she was concerned regarding public nuisance. Attendees of the brewery had trespassed on her property and the use as a bar had escalated. There was public nuisance from noise and she felt that this would increase if the variation was granted, from youths making noise in the street and on site.

The licensing officer confirmed that the variation related to the Taphouse building (marked as a brewery on the plan attached to the licence) both regarding the supply of alcohol and films and was in respect of Friday to Sunday, the variation regarding Monday to Thursday having been withdrawn by the applicant.

Consumption of alcohol was noted not to be a regulated activity, though use of land for that purpose could be subject to conditions.

Marion Catlin told committee that the residents had been trying to work with the brewery and she had no disagreement with most of the matters presented by Mr Cary. The residents had direct experience of the extension effect due to the licensing error earlier in the year and this was a mass venue. The extension by two hours would increase the number of attendees and the effect of the premises was to prevent use of outdoor spaces by residents. The premises were very close to her house (an overhead colour photograph was referred to). Noise arose from people drinking and singing, she had been woken up. The proposed variation effected twelve households directly.

Guy Peryer told committee of his family circumstances including his young children and following the activities over the summer there was concern as to whether they would continue to live there. He disagreed that the variation was as minor as suggested by Mr Cary and noted the venue had no sound attenuation, being a factory premises, and noise had been too bad to use the family open space over the summer. (Mr Cary agreed at this point that there had been an unacceptable event over the summer where a charity had failed to properly look after the site). Mr Peryer referred to pages 43 and 44 of the agenda regarding the event, noting he had asked the user of an amplified guitar in the garden to cease which they had indicated they would do after 20:00. Reference was made to a mobile bar which did not form part of the application.

Mr Andrew Smith told committee that whilst matters were quiet now there had been noise disturbance throughout the summer. Security persons had little to do at the moment as few persons were there and the premises had reverted to previous hours of opening. He mentioned when 200/300 persons were socialising the noise received was like a wall of sound. Voices from outside could be heard even with windows being shut. Noise also arose from persons leaving the premises and he suggested the use was not acceptable at this location.

Feride Dincer told committee that even with windows shut and earplugs used the noise was disturbing, normal chat was disturbing. She also mentioned her young daughter complaining of the noise and believed any increase in hours was likely to disturb sleep. She expected this to happen from this variation. Matters were worse in hot weather with windows open. The situation caused high stress and anxiety and noted that herself and her partner were unable to rest properly on Friday night with the noise.

Richard Pierson told committee that whilst his premises was approx..80 metres from the archway entrance he was concerned about noise and felt the extension sought would move the problem of noisy customers on the highway to a later time which would be more difficult to deal with, namely 23:00/23:30.

Cllr Stewart mentioned the comments of Sally Butt and reference was made to the representation on the agenda papers.

Cllr Price mentioned the concern that noise was a public nuisance, there had been bad behaviour from customers such as urination in gardens and he felt the premises had inadequate toilet facilities. There was noise from car doors for example when persons visited. When the brewery was open there was a constant sound from cars. Some residents suffered from noise from the premises and some from the arrival and departure of customers. He suggested the premises were causing emotional harm to children due to the noise arising.

The applicant addressed committee regarding the level of toilet facilities, being 3 wc and a urinal. The premises had a limit of 200 persons inside the building.

Mr Cary addressed committee noting that many customers did not visit by car and if there was a significant level of antisocial behaviour he would have expected representations from the police. Any public nuisance would involve environmental health. This was a unit next to a railway line and the area was significantly industrial. There was adequate soundproofing and a refurbishment was intended to increase this. Mr Cary suggested the main concern from residents was noise produced from outside the building that was the subject of the variation and noted that the applicant would be happy for there to be no consumption of alcohol in the open area after 21:00 on any day. The premises did not have a car park.

There was a discussion regarding the proposed conditions within the proposed variation shown on page 34 of the agenda and it was agreed that under (a) item 4 the words "by visitors and patrols" were deleted, in respect of (a) item 2 the wording was amended to "The number of visitors admitted onto the Brewery/Taproom will be limited to 200 persons at any one time", under (c) item 3 was deleted and under (d) item 3 was amended by the deletion of "the car park" and the insertion of "where cars are parked".

DECISION OF THE COMMITTEE:

In respect of the variation as amended, for the days of Friday, Saturday and Sunday, the committee approved the variation as amended with the addition of conditions designed to address the risk of public nuisance as follows:

1. There will be no disposal of bottles, glasses or kegs to any external container between the hours of 21:00 to 08:00 on any day
2. There will be no use of the outside area of the premises for the consumption of alcohol after 21:00 on any day
3. The shutter door to the Taproom/Brewery is to be closed between 21:00 and 23:00
4. Condition 5 of annex 2 on the licence is retained, amended to add "save for the Taproom/Brewery"

Several existing conditions were not reproduced or amended by the application as shown on page 34 of the agenda being 8, 9, 10 and 13 of Annex 2. There was no reference to their removal at committee and the variation application states "none, extension only" regarding those conditions to be removed as a consequence of the sought variation. These are maintained. Proposed condition 4 under (a) was not approved.

Committee noted the amended opening hours of the premises shown on page 33 of the agenda being 12:00 to 23:00 on Friday / Saturday and 12:00 to 22:00 on Sunday.

THE REASONS FOR THE COMMITTEE'S DECISION:

The committee noted there were no representations from any responsible authority and gave weight to the fact there were no concerns from the Norfolk Constabulary (felt to be relevant regarding crime and disorder) or the Environmental Health Department (felt to be relevant regarding noise nuisance risks).

The committee noted that their role was to consider the variation applied for rather than to consider any wider issues. The continuation of conditions 8,9,

10 and 13 of Annex 2 appeared to be appropriate to support the prevention of crime and disorder licensing objective.

The committee noted that this variation did not seek to introduce the licensing of live or recorded music, but committee was aware of the passporting situation regarding live/amplified music and premises licensed for the retail supply of alcohol.

Residents' concerns related primarily (though not exclusively) to the use of the outdoor area and the noise produced there, together with noise arising from persons arriving at and leaving the premises and noise from the Brewery building. The decision of the applicant to agree the continuation of controls relating to the consumption of alcohol in the outside area after 21:00 should significantly reduce the risk of an increase in noise and disturbance to residents between 21:00 and 23:00. The behaviour of persons once outside the control of the business was noted to be a matter of personal responsibility, pursuant to the s182 statutory guidance on this point. The level of increased noise and possible disturbance arising from the Brewery/Taproom being licensed for alcohol sales and films for an additional six hours per week (and not after 23:00) was felt unlikely to produce disturbance that was so significant that refusal of that integral part of the variation could be justified. The limited hours sought were felt to be reasonable. It was accepted that there would be some increase in noise from persons in the Brewery and arriving and leaving the site but on the evidence before committee this was felt to be proportionate and not unreasonable in extent.

RIGHTS OF APPEAL:

Full rights of appeal are set out in Schedule 5 to the Licensing Act 2003. The applicant and any person who has made a relevant representation who wishes to appeal this decision or any part of it should apply for that purpose to the Magistrates Court within 21 days of being notified of the decision appealed against.

Dated this 19 day of November 2018

Chair. *J. Maxwell*

Dated. *24/11/2018*

