



NORWICH City Council

Notice of Determination

Date of Hearing: 28 November 2012

Licence Type: Application for review of a Premises Licence

Name of Applicant: Councillor Brociek-Coulton and Councillor Barker

Name of Premises: The Marlborough Arms

Name of Premises Licence holder: John Linford and Deborah Linford

Postal Address of Premises (or description of premises): 43 Spencer Street, Norwich
NR3 4PB

Licensing Sub-Committee:

Councillors Kendrick (Chair) Haynes and Price

Other Persons Present:

Councillors Brociek-Coulton and Councillor Barker, applicants for the review.

Richard Divey representing the environmental health section of Norwich City Council.

Sue Woods representing the Norfolk Constabulary.

Members of the public/ local residents:

Mrs D Watkinson, her son Mr Adrian Watkinson, Ms Sarah Wide

David Lowens, Solicitor nplaw

Determination

Due to the non-attendance of the premises licence holders the committee took time to consider whether notice had been given to them of the hearing. Mr Lowens informed the committee that following a telephone conversation with Mr Ian Streeter, Licensing Officer, who unfortunately was on sick leave, Mr Streeter had accessed his electronic records and confirmed that notice had been sent. In these circumstances the committee were of the view that the premises licence holders had been informed of the hearing and proceeded with the application.

Mr Divey presented committee with a photograph of the premises and mentioned the view of the environmental health department that the premises were inadequately insulated, that customer noise and music could be heard outside the premises even when all doors and windows were closed and that the premises were not suitable for 24hr opening in this residential location. He discussed the history of noise complaints including the service of a Noise Abatement Notice in 2008 and the meetings which had been held following the serving of that notice with those in control of The Marlborough Arms. He confirmed that there had been a reduction in noise complaints since a meeting held in 2010. He suggested to committee that in view of the problems that had arisen from karaoke taking place at the premises, it would be appropriate to impose conditions upon the playing of live music at this venue. He confirmed the last complaint regarding loud music was received on 14 September.

Ms Woods from the Norfolk Constabulary addressed committee and stated that the records showed that since the start of the year two complaints had been recorded, both in January.

Councillor Brociek-Coulton read out the letter of complaint from Mary Taylor of 42 Spencer Street. Councillor Barker spoke regarding the problems he had heard of regarding The Marlborough Arms caused by the 24hr licence and stated that his constituents were seeking reasonable licensing hours and the avoiding of music disturbance at anti-social hours. He had been informed that there were problems with persons congregating outside The Marlborough Arms causing a problem for residents, especially late in the evening.

Doris Watkinson of 44 Spencer Street addressed committee and spoke regarding her concerns and expanded on the matters set out in her representation to committee. She had lived at this address for 52 years, slept in her front bedroom and mentioned the problems she had received from the premises. Customers of The Marlborough Arms caused her to suffer nuisance and disturbance when they used the outside area of the premises and nuisance also arose from music and occasional live music such as drumming in the early hours of the morning such as 2.00 am. The effect of the disturbances which until recently had gone on until 2.00 am (the premises had recently been quieter due to earlier closing) was that it affected her sleep by preventing her from getting to sleep. Noise nuisance had occurred from activities connected with the premises such as the banging of doors from taxis accessing the premises' customers. She was kept awake several nights a week and found week-ends worse. She was unable to open her bedroom window. Her main issue of complaint was noise nuisance caused by voices from customers at The Marlborough Arms.

Mr Adrian Watkinson spoke to committee and mentioned that he visited his mother approximately once a week and generally in the evening. He had heard whilst he was there problems from karaoke and from general noise caused by persons outside the premises with a lot of abuse and general disturbance. He was generally there from tea time until 23.00 to midnight.

Ms Sarah Wide of 53 Marlborough Terrace explained her concerns to committee, that in summary she felt the premises licence was inappropriate on a 24hr basis. She had received significant nuisance and disturbance from customers of The Marlborough Arms, the various activities had been cited on her log sheets, that she was suffering symptoms of sleep deprivation and was specially concerned by the noise arising from the designated

smoking area, she was unwell due to anxiety depression, that the impact of the nuisance and disturbance caused to her from the premises was severe. She agreed a temporary lull had recently occurred which she felt was due to the review hearing shortly to take place. She felt the owner was not resident and the young staff at the premises did not seem capable of bringing order to their clientele.

Councillor Barker then mentioned to committee the problems he had personal experience of regarding the crowds of persons sitting outside The Marlborough Arms.

Mr and Mrs Watkinson and spoke regarding the problems caused by music from the premises which whilst it was recently in abeyance had caused problems with sleep. Mr Watkinson especially thought that live bands would mean that he could not personally sleep at the premises and felt that The Marlborough Arms was not of suitable design for live bands. He had known problems arising from karaoke even when the singing had ceased, as persons passed around and used the microphone.

Mr Divey spoke to committee regarding the possibility of a noise limiter and felt the problems with the structure of The Marlborough Arms was such that a noise limiter could be triggered by persons talking within the premises.

The Committee's decision:

The committee imposed the following conditions:

1. There is to be no use of the exterior of the premises after 22.30 on any day (other than use of the current smoking area located at the side of the building and travel to and from the same).
2. Hours for the retail sale of alcohol were amended to 11.00 – 24.00.
3. Opening hours for the premises were amended to 11.00 to 00.30 hrs the following day and the exterior smoking area is to be used only between the hours of 11.00 to 00.30 hrs the next day
3. The hours for late night refreshment were amended to 23.00 – 00.30 hrs the next day.
4. The hours for the licensable activity of recorded music were amended to 11.00 – 23.00 hrs.
5. Live music including karaoke shall not take place other than 11.00 to 23.00 hrs.
6. All doors and windows at the premises are to be kept closed other than ingress and egress after 22.30 hrs.
7. All windows and doors of the premises are to be kept closed except for ingress and egress whenever recorded and live music entertainment is provided.

The Committee's reasons:

Committee had carefully considered the comments of the environmental health department regarding the structure and noise complaint history of the premises and found the local residents and Mr Adrian Watkinson, visitor, to be straightforward and honest witnesses. The local residents had clearly been suffering considerable noise nuisance and disturbance arising primarily from the voices of the clientele of The Marlborough Arms and also from live and recorded music and this disturbance under the 24 hr licence had been at anti-social hours and had the affect of preventing and reducing sleep.

Problems had arisen due to the activities of persons both inside the premises and in the exterior of the premises within an area that should have been controlled by the management of The Marlborough Arms.

Members of the committee took account of The Marlborough Arms location within a residential area when deciding on the appropriate hours for the licensable activities and took account of disturbance being caused by use of the exterior parts of The Marlborough Arms when imposing conditions to try to reduce such disturbance at hours when persons were likely to be trying to sleep.

Right of a Party to appeal against the determination of the Authority

For your information applicants, the holder of the premises licence and any party who made a relevant representation or submitted an objection notice who is aggrieved by the decision or the imposition of any term, condition or restriction, have a right of appeal to the magistrates court within 21 days from the date on which they are notified of the decision.

Dated this 18th December 2012