


**WITNESS STATEMENT****Statement of Mickalla Howell.**

*This statement consisting of 6 pages each signed by me is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.*

Signed.....

Dated.....01/06/2015.....

My name is Mikala Howell and I live at the address overleaf. My date of birth is . I have been employed as Bar Manager at bar 48 since December 2013. I have been the DPS and became the licensee of the premises on 13<sup>th</sup> August 2014. Whilst the premises were operating as a bar we applied for a late license on several occasions. We were never refused and I was never aware of any agency raising an objection. In addition a number of the matters raised relate to periods before I was the licensee of the premises.

I have seen the application for the review of the licence and the accompanying evidence and wish to say as follows:-

The Police state that the bar is not being run in a responsible manner, but I disagree with this statement and will respond to all of the allegations made. The principle objection appears to relate to the sale of alcohol to an underage person. Whilst I accept this should not happen, there is only evidence of this occurring once in sixteen months. The night on which the sale took place was extremely busy as agreed by the Police and the member of staff who made the sale is no longer with us. This is because they informed the Police that they hadn't received any training on the matter which in fact they had.

In addition we keep a diary, and I will produce entries from this exhibit reference MH1, which details the number of occasions when other potential customers who were believed to be underage had been refused service by staff. I would

Signature:.....



be interested to know whether Trading Standards have attempted to make any other test purchases at the premises and have been refused.

At no point have we been given guidance by the authorities that we have failed to follow. The Police claim that there have been 13 incidents attributable to Bar 48 since it opened, but apart from the specific incidents referred to, which I shall respond to, no further information is given as to how these relate to Bar 48. There have also to my knowledge been no arrests for disorder related to the premises. We called the Police on one occasion due to a customer behaving aggressively and causing damage and this is the only time in 16 months we have had need to call the Police. Exhibit MH1 also refers to a number of occasions when those considered too drunk were refused service.

The application and timeline refers to some incidents that I wish to respond to directly, firstly the arrest of [REDACTED] for excess alcohol. [REDACTED] has done occasional work at the premises and was arrested for driving with excess alcohol in February this year, but this has nothing to do with the Bar. He was driving from Kidsgrove at the time of his arrest, was not coming to the bar, nor had he been drinking at the Bar beforehand. I as the licensee cannot be expected to be responsible for the actions of everyone who has worked at the Bar in their own time. The positive drugs warrant is currently the subject of unresolved criminal proceedings. I am not aware of any fighting outside the premises and will deal with the noise issues later in the statement when commenting on the Applicant's evidence.

In relation to the alleged increase in anti-social behaviour, the statistics relied upon are completely arbitrary. The Applicant puts great weight on the fact that comparing four months in 2013 to 2014 shows an increase of 43% but if you compare December 2013-March 2014 with December 2012-March 2013 this shows a decrease from 36 incidents to 22 incidents a reduction of 38%.

A significant number of the anti-social behaviour recorded occurred in July 2014 when the World Cup took place. This is a factor which needs to be taken into account as there is no comparable event in the sixteen months considered before the licence was granted. If this month is disregarded and an average month had occurred the difference in incidents would be so small it would be negligible.

Signature:.....[REDACTED].....



The Applicant refers to an incident of fighting outside the Bar and refers to the statement of PC Need. The Officer confirms the bar was closed at this time. The Officer also confirms that the disturbance was outside Flames takeaway and none of those causing a disturbance were seen to leave our premises. It should be noted that Flames is open until midnight, next door to our Bar is the Hot Spot takeaway which remains open until 0200. Apart from the few occasions a late license has been granted, our bar closes at 2200 in the week usually because we are not very busy and 2300 at the weekend. The other two pubs in the area are The Mere and The Bank Corner which close at midnight and 0100 respectively. It had remained open until 0200 but this changed following a licence review. Consequently a number of patrons leave those premises a good deal later than they leave our bar and they come through the High Street to our end of the town as these two takeaways are the only options in town for those wanting kebabs burgers or pizza late. We have asked why they are allowed to remain open so late and been advised that the Fire Brigade are keen on this to prevent fires at home. I do not understand why our license is under review when we close three or four hours before the take away, which is encouraging the congregation of intoxicated patrons into the early hours of the morning. In any event, I see nothing of great concern in PC Need's statement. The Officer describes some raucous behaviour, nothing that required arrest, advice was given to those behaving as described and complied with.

I have already commented on the test purchase conducted under Operation Fern, there is an over 25 policy in place and none of the Police or Trading Standards present expressed concern that anyone else in the bar was under age and drinking.

I will respond to the individuals who have given statements, later in this statement. I will be providing statements from individuals who live closer to Bar 48 than those provided by the Applicant who have raised no concerns regarding the noise level.

With regard to the planning application for a bar, this was refused on planning grounds alone. No agency objected to the bar being granted permission to my knowledge. Whilst we did not agree with the reasons given for the refusal, we did not appeal and the owner sought A3 permission for a cafe restaurant. This has now been granted. We now have a food hygiene certificate giving four out

Signature:.....



of five stars reference MH/2 and I can provide photographs of the new interior exhibit reference MH/3. Although we do not agree with the evidence of the witnesses, there will no longer be live music or DJs performing at the venue since the change of use. The Applicant states the incidents of loud music continue but this cannot possibly be the case as there is no provision for this. The only music played is now from a jukebox.

In relation to the You Tube footage this shows the volume inside the club and does not give an objective assessment as to the volume that can be heard outside the club.

In relation to the timeline, the Police refer to two incidents on 6<sup>th</sup> April, but provide no further relevant information, were either of the males in the drug exchange arrested? Was this confirmed? Who witnessed this? What connection did they have with the bar? What time of day was this? Similarly with the fight it is impossible to respond to this hearsay without further information.

The next incident is a fight outside the bar on 12<sup>th</sup> July, were the males seen to leave the bar? Clearly it was not serious enough to justify an arrest. The proceedings regarding the drugs warrant are ongoing. These relate not to the bar but to containers on land owned behind the bar. I gave evidence to the Police and [REDACTED] and [REDACTED] have no position of responsibility within the bar.

Was the complaint on 7<sup>th</sup> February 2015 attended by the Police? Is there evidence the males had left the Bar? I assume the reference to 14<sup>th</sup> February is the incident on 13<sup>th</sup> covered in PC Need's statement. I have already dealt with [REDACTED] arrest for excess alcohol.

The timeline refers to Environmental Health installing an NME on three occasions with no evidence forthcoming. I do not know what this is but I assume it is some manner for recording noise levels.

I am also aware there is CCTV covering the High Street including the bar area.

**Re the Statement of PC Need:**

I have already made the relevant comments regarding this.

Signature:.....[REDACTED].....



### **Re the Statement of PC Howard**

There were not 70-80 people inside the premises. It would not be possible to fit that many people in the bar. There was 40-45 maximum. At no point did the Police do a head count or make any comment regarding the noise.

At no time was anyone aggressive or rude to the Officers.

At no point was any advice given regarding anything other than the sale of alcohol to an underage person nor did the Officer express any concern regarding the number of people in the venue to me, or any concerns regarding the general mood, behaviour of the patrons, health and safety or any other matter.

Mr Powell is not, and has never been, the licensee. My name is Mikala Howell not Powell.

### **Re the Statement of Niki Bugg**

I dispute the noise was so bad and refer to the only independent evidence being the sound test conducted at the premises.

I cannot speak as to the conversations had with the owner's daughter. I recall the conversation with this male. He asked me to turn the music down and I did, this is confirmed by the statement of Manuela Gruse. Had he asked me again I would have agreed.

I was not a party to Mr Powell's conversation with Mr Bugg. I am advised it is on the whole true, however, Mr Powell indicates he had already applied for an events licence and did not want Mr Bugg to think he was not being up front with him. Mr Powell asked Mr Bugg to speak to me if this caused any issues.

When was the fight in the garden that this male refers to? Again there is no detail regarding these incidents, no date or time.

I also note that in spite of speaking to Environmental Health there is no evidence from that department regarding the noise.

The menu referred to was before the bar was converted. There is no live music.

Signature:.....

The number of incidents suggested by the witness is not borne out by the Police who record only 13 incidents relating to the bar, some of which we contest.

**Re the statement of Manuela Gruse**

What evidence does the witness have to show there was an increase in footfall?

The business was never a tapas bar.

The church referred to is over 80 metres from the bar, there is only so much control I have over the customers once they leave.

Again I am not aware of any young people gathering at the bus stop after being customers of bar 48.

The windows are single glazed and it would not be in keeping with building as it is 1820s. I doubt the glass was shaking as it is laminated and would be a structural issue.

This witness states the music was turned down when asked, in direct contradiction of the evidence from Mr Bugg.

**Re the statement of Janet Ware**

We have never been a wine bar.

Is there any evidence of customers in the areas of other businesses or urinating in doorways? For example are there any complaints from those businesses.

There is no evidence from Environmental Health and I have already explained the planning issues. Now the business has changed there is no more live music. It should also be noted Police have attended on other occasions regarding noise. The Officers confirmed there was no noise or disorder and signed our diary to this effect. They also confirmed they were receiving a high number of complaints from one particular neighbour.

We have never sold outside of hours. The witness may be referring to the occasions when a late license has been granted. The business is now a cafe/restaurant and I refer the panel to the photographs and other evidence earlier exhibited. I also exhibit MH/4 a sample menu. Planning and enforcement have inspected the premises and passed the application.

Signature:  .....





Food  
Standards  
Agency

food.gov.uk/ratings

Cheshire East  
Council



Name of business

Box 48, 48 Crewe Road, Alsager

Date of hygiene rating

28<sup>th</sup> April 2015

Local authority name

Cheshire East Council

Authorising signature

This sticker remains the  
property of the local authority

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## Challenge 25 Policy

- Any person who looks Under 25
- Ask for Id
- Passport / Driving licence
- If no Id, refusal of alcohol
- Write in the diary any refusal or if Seen Id

## ALL Staff

- Make sure all fridges are stocked up.
- All books filled in.
- The bars cleaned including toilets
- Barrels are checked before every shift.
- No tabs unless Aproved!

Thanks ☺



IMPOSSIBLY SMOOTH  
PREMIUM BEER

COBRA  
कोबरा

4oz Burger £3.50  
12" Hot dog £3.50  
Steak pie £2.00  
Chicken Burger £3.00  
Chips £1.50  
Curly fries £2.00

[drinkaware.co.uk](http://drinkaware.co.uk) for the facts

IMPOSSIBLY SMOOTH  
PREMIUM BEER

COBRA  
कोबरा

Onion Rings £1.50 x 8  
Peas 60p  
Gravy 60p  
Curry 60p  
Cheese 2.5p  
fried onions 2.5p

[drinkaware.co.uk](http://drinkaware.co.uk) for the facts



# **AB acoustics**

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Shaw  
Oldham  
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**Bar 48**  
**48 Crewe Road**  
**Alsager**  
**ST7 2ET**

**Environmental Acoustic assessment**  
**at above**

**AB acoustics**  
**4 Cumbrian Close**  
**Shaw**  
**Oldham**  
**OL2 7RH**

**July 2014.**



## **Introduction**

AB acoustics were commissioned by Bar 48 to undertake an environmental noise assessment regarding the reported noise radiated from the above premises when live singers were performing within the venue.

It is understood that complaints have been received from one neighbour regarding the level of noise from the premises.

Again it is understood that live entertainment only takes place on one evening a week – usually a Friday or Saturday night starting at around 20.00 hrs and continuing until around 23.00 hrs.

Originally the singer was sited adjacent to the front facade of the bar but as a result of the complaints they have moved into the middle of the bar together with their speakers.

The measurements were undertaken on Friday 11 July 2014 at the locations detailed below.

The singer – Jenni Stevens – is understood to be typical of the type of singer that the bar employs – solo artist with electronic backing music playing a wide range of songs.

A plan of the location is shown below together with the measurement location.



In the immediate vicinity of Bar 48 are a number of existing commercial premises – chip shops – hot food take aways – off licence and The Mere public house which also advertises live music events for the daytime and evening.

The front facade of Bar 48 consists of two large single glazed windows and two smaller single glazed windows with a central glazed wooden door.

The front facade appears to be origin and the access door is poorly fitted into the surrounding timber frame – this is particularly true to the bottom of the door.



### Equipment Used and Procedure

The noise levels were measured using a :

The measurements were made with a Norsonic Type 144 Sound Level Meter – fitted with a suitable windshield - at a height of 1.5m and at least 1.5m away from any reflecting surfaces.

The system was calibrated prior to the series of measurements and checked afterwards using a B & K Type 4231 Calibrator – no deviation was found.

The measurements were undertaken at the times stated in the results.

### Results and Discussion

Measurement Period	L <sub>aeq</sub>	L <sub>A10</sub>	L <sub>A90</sub>	L <sub>max</sub>
Internal (by door ) 20.15 - 20.30	86.4			94.1

	Octave Band Centre Frequencies Hz					
63	125	250	500	1000	2000	4000
83.1	84.2	80.3	81.1	82.5	80.6	75.4

External across road – only just audible when there was a break in the traffic flow – busy road and singer could not be heard over the traffic – busy pedestrian route with hot food shops – 20.30 – 20.50 hrs.

	Octave Band Centre Frequencies Hz					
63	125	250	500	1000	2000	4000
53.9	53.3	53.2	53.6	49.3	42.2	34.3

As can be seen the main noise source is the constant traffic flow along Crewe Road.

In addition to the above the LA90 (background) noise level was measured.

	Octave Band Centre Frequencies Hz					
63	125	250	500	1000	2000	4000
57.7	51.7	46.4	45.7	41.7	39.6	34.1

Additional internal measurements were undertaken between 20.55 – 21.10.

LAeq	Octave Band Centre Frequencies Hz						
	63	125	250	500	1000	2000	4000
87.2	84.4	80.7	85.3	85.2	82.6	79.2	74.0



External – 21.15 – 21.30 – during break for singer

Measurement Period	$L_{aeq}$		$L_{A10}$		$L_{A90}$		$L_{max}$
	55.9		58.3				
	Octave Band Centre Frequencies Hz						
63	125	250	500	1000	2000	4000	
62.3	54.8	51.9	52.0	52.8	48.3	39.6	

Again as can be seen the main source of noise is due to the constant traffic flow along Crewe Road.

**46.8**

	Octave Band Centre Frequencies Hz					
63	125	250	500	1000	2000	4000
54.6	50.3	45.8	45.6	41.4	37.6	32.0

External – 21.50 – 22.10 – singer performing.

Measurement Period	$L_{aeq}$		$L_{A10}$		$L_{A90}$		$L_{max}$
	54.2		56.3				
	Octave Band Centre Frequencies Hz						
63	125	250	500	1000	2000	4000	
62.0	56.5	50.5	50.3	51.1	45.7	36.1	

Again as can be seen the main source of noise is due to the constant traffic flow along Crewe Road.

**47.2**

	Octave Band Centre Frequencies Hz					
63	125	250	500	1000	2000	4000
56.5	52.9	44.8	44.4	42.2	38.6	31.7

External – 23.05 – 23.20 – no singer

Measurement Period	L <sub>aeq</sub>			L <sub>A10</sub>		L <sub>A90</sub>		L <sub>amax</sub>
	55.9			59.9				
	Octave Band Centre Frequencies Hz							
63	125	250	500	1000	2000	4000		
52.8	51.3	51.4	50.3	53.0	49.3	39.3		



Again as can be seen the main source of noise is due to the constant traffic flow along Crewe Road.

**44.6**

	Octave Band Centre Frequencies Hz					
63	125	250	500	1000	2000	4000
48.2	45.5	41.4	42.1	40.5	37.6	28.5

The Lamax was also measured internally with the following results :

Lamax = **94.1** 90.9 93.6 92.5 95.2 87.6 88.7 80.8

The noise from the singer is escaping from the premises by two paths – the large single glazed windows and the ill fitting single door – these are discussed in detail below.

#### *Door*

No attenuation figures are available for the present door but due to it being poorly fitted into the frame we would estimate that only an attenuation of the order of 20 dBA is being achieved.

The noise level at the location of interest can be calculated using :

$$L_2 = L_1 - 6 - R + 10 \log S - 11 - 20 \log r + DI$$

Where

$L_2$  = Calculated level at distance r metres

$L_1$  = Measured Level – from above = **87.2 dBA**

R = the sound reduction index of the building element which in this case is  **$R_w = 20$**

**dB**

S = Surface Area of door to Crewe Road =  $2.0 \times 1.0 = \mathbf{2.0 \text{ sq m}}$

r = distance = **31m** .Reference : GoogleEarth

DI= Directivity Index = 3

Therefore  $L_2 = 87.2 - 6 - 20 + 10 \log 2 - 11 - 20 \log 31 + 3$

**$L_2 = 26 \text{ dBA}$ .**

This attenuation can be improved by building an acoustic lock internally within the bar – the side walls should be constructed from a timber / metal stud and covered with a single layer of 12.5mm plasterboard to both sides – the cavity between the plasterboard should be filled with mineral fibre sound insulation material of at least 10 kg / cu m density and 50mm thickness.

The actual access door into the bar could be timber with a glass panel (6.4mm laminated glass for safety) – the door would need to be sealed around the whole of its perimeter – including the floor – with compression seals – from previous experience doors / seals of this type has achieved attenuations of the order of 30 dBA.

If this is then combined with the existing attenuation – estimated to be 20 dBA – then as a rule of thumb the resultant attenuation could be of the order of  $0.66 \times (20 + 30) = 33 \text{ dBA}$ .



If this is the case then the noise from the door could be attenuated to around **13 dBA** – a reduction of 13 dB – the acoustic lock would also have the advantage that less noise may 'escape' from the Bar as one of the doors could be closed.

No spectral data is available for the door.

Applying the above to the measured internal L<sub>max</sub> levels the calculated external levels are **20 dBA** and **33 dBA** respectively.

### Windows

The attenuation offered by the windows depends upon the area of window that faces the complainants property – there are three windows of 1.4m x 2.4m and two at 0.4m x 2.4m which gives a total area of approximately 12 sq m.

The noise level at the location of interest can be calculated using :

$$L_2 = L_1 - 6 - R + 10 \log S - 11 - 20 \log r + DI$$

Where

$L_2$  = Calculated level at distance r metres

$L_1$  = Measured Level – from above = **87.2 dBA**

R = the sound reduction index of the building element which in this case is  $R_w = 29$  dB (single pane of 4mm glass reference Pilkington's Data Sheet) .

S = Surface Area of window to Crewe Road = **12.0 sq m**

r = distance = **31m** .Reference : GoogleEarth

DI = Directivity Index = 3

Therefore  $L_2 = 87.2 - 6 - 29 + 10 \log 12 - 11 - 20 \log 31 + 3$

**$L_2 = 25$  dBA.**

However if the noise level is calculated with respect to each octave band the following noise levels result :

	Octave Band Centre Frequencies Hz						
	63	125	250	500	1000	2000	4000
Measured Internal Laeq	84.4	80.7	85.3	85.2	82.6	79.6	74.0
Attenuation of 4mm glass (see data sheet)	-	17	20	26	32	33	26
Calculated octave band level at location of interest :							
Laeq	31	32	26	17	14	14	
Lamax	44	39	36	23	23	22	

It is usual for LPA's to require that the noise level from venues of this type 'produce' a noise level that is at least 5 dBA BELOW the lowest measured background level.



45.5 41.4 42.1 40.5 37.6 28.5

As can be seen this is not the case with respect to the Lamax levels therefore the following is recommended :

That the single glazed windows are internally glazed with a second sheet of glass – the gap between the existing glazing and this secondary pane should be as large as possible to achieve the maximum attenuation to the internal noise.

We would assume for safety reasons that the glass should be 6.4mm laminated.

If this is the case and assuming a gap of the order of 100mm and using the quoted attenuation (see enclosed data sheet) the external Lamax level at the location of interest could be :

	Octave Band Centre Frequencies Hz					
	125	250	500	1000	2000	4000
	93.6	92.5	95.2	87.6	88.7	80.8
Quoted Attenuation	26	34	44	56	53	52

Calculated Lamax level at location of interest – assuming above distances and areas :

35 25 18 -1 2 -4

LOWEST measured background level – from above :

45.5 41.4 42.1 40.5 37.6 28.5

Therefore calculated Lamax difference to background :

-10.5 -16.4 -24.1 -41.5 -35.6 -32.5

As can be seen the calculated Lamax noise level radiated by the facade windows is well below the requirements of being 5 dB BELOW the lowest measured background level.

With respect to the noise radiated by the proposed modified door the overall Lamax level is calculated to be **20 dBA** (see above) and the lowest measured background **LA90 = 44.6 dBA**.

As can be seen this is 24.6 dBA BELOW the LOWSET measured background level.

### **Recommendations**

The windows to the front facade are 'secondary' glazed with at least 6.4mm laminated glass – the cavity created being as wide as possible.

The existing access door to Crewe Road be retained but internally an acoustic lock be constructed as detailed in the report.

Roger Leach AMIOA

July 2014.





## Pilkington Optiphon™

	dB sound reduction index by octave band – Hz						$R_w(C;C_2)$	$R_w$	$R_w+C$	$R_w+C_2$
	125	250	500	1000	2000	4000				

### Configuration single glazing

6.8 mm Pilkington Optiphon™	21	26	31	35	37	38	35(-1;-3)	35	34	32
8.8 mm Pilkington Optiphon™	24	28	34	38	37	43	37(-1;-4)	37	36	33
10.8 mm Pilkington Optiphon™	28	31	36	38	39	47	38(-1;-2)	38	37	36
12.8 mm Pilkington Optiphon™	30	32	37	39	41	51	39(-0;-2)	39	39	37
16.8 mm Pilkington Optiphon™	29	34	37	39	46	55	40(-0;-2)	40	40	38

### Configuration Insulating Glass Unit (IGU), thickness in mm

6 / 6 to 20 mm / 6.8 Pilkington Optiphon™	23	24	34	42	43	52	38(-2;-5)	38	36	33
6 / 6 to 20 mm / 8.8 Pilkington Optiphon™	24	26	40	48	46	54	41(-3;-7)	41	38	34
6 / 6 to 20 mm / 10.8 Pilkington Optiphon™	23	28	41	47	45	55	42(-3;-7)	42	39	35
6 / 6 to 20 mm / 12.8 Pilkington Optiphon™	20	29	43	47	46	49	42(-3;-8)	42	39	34
8.8 Pilkington Optiphon™ / 6 to 20 mm / 12.8 Pilkington Optiphon™	26	36	46	50	52	63	47(-2;-7)	47	45	40
16.8 Pilkington Optiphon™ / 6 to 20 mm / 16.8 Pilkington Optiphon™	29	40	45	47	54	68	48(-2;-6)	48	46	42

The above IGUs with Pilkington K Glass™ on one pane and a 16 mm 90 % Argon-filled cavity achieve a U value of 1.5 W/m² K.

Further information on solar and thermal performance is available on the Pilkington website using the Spectrum program: [www.pilkington.com/spectrum](http://www.pilkington.com/spectrum)

Impact classification EN1288 Class 1(B)1 for all above Pilkington Optiphon™ products

$R_w(C;C_2)$  are in accordance with EN117-1

### Non Pilkington Optiphon™ glass products. Figures from BS EN 12354

	dB sound reduction index by octave band – Hz						$R_w(C;C_2)$	$R_w$	$R_w+C$	$R_w+C_2$
	125	250	500	1000	2000	4000				

### Configuration single glazing

4 mm Float Glass	17	20	26	32	33	26	29(-2;-3)	29	27	26
6 mm Float Glass	18	23	30	35	27	32	31(-2;-3)	31	29	28
8 mm Float Glass	20	24	29	34	29	37	32(-2;-3)	32	30	29
10 mm Float Glass	23	26	32	31	32	39	33(-2;-3)	33	31	30
12 mm Float Glass	27	29	31	32	38	47	34(-0;-2)	34	34	32

### Configuration Insulating Glass Unit (IGU), Float glass, thickness in mm

4 / 6 to 20 mm / 4	21	17	25	35	37	31	29(-1;-4)	29	28	25
6 / 6 to 20 mm / 6	20	18	28	38	34	38	31(-1;-4)	31	30	27
6 / 6 to 20 mm / 4	21	20	26	38	37	39	32(-2;-4)	32	30	28
10 / 6 to 20 mm / 4	24	21	32	37	42	43	35(-2;-5)	35	33	30
10 / 6 to 20 mm / 6	24	24	32	37	37	44	35(-1;-3)	35	34	32

Note that these are conservative figures and cover all products by European glass manufacturers.

$R_w$  = Weighted sound reduction. This scale allows for the response of the human ear and could be used for determining a suitable product to reduce noise such as voices.

C = An adjustment to the  $R_w$  scale that could be used for selecting a product to reduce noise from music, radio, tv, high speed traffic and other medium to high frequencies.

$C_2$  = An adjustment to the  $R_w$  scale that could be used for selecting a product to reduce noise from urban road traffic, disco music and other noises with a large component of low frequencies.

Note that a 3 dB difference is barely discernable, 5 dB is clearly discernable and 10 dB is a doubling or halving of the noise.



Table 3 – Double Windows (Secondary Sashes)

Thirdoctaveband Centre Frequency (Hz)	Sound Insulation (dB) for Glass Thickness (mm)		
	6/100/4	6/150/4	10/200/6
100	25	27	32
125	27 26	30 29	37 35
160	27	30	39
200	33	34	45
250	33 34	34 35	46 46
315	37	39	46
400	41	42	47
500	46 44	46 45	45 46
630	50	50	45
800	54	54	44
1000	57 56	57 56	45 46
1250	59	58	50
1600	58	58	53
2000	52 53	52 52	58 56
2500	51	49	58
3150	48	47	64
4000	57 52	52 50	64 65
$R_m$ (dB)	44	44	47
$R_a$ (dB)	46	47	49
$R_{(A)}$ (dBA)	37	39	45



## Submissions made on behalf of Mickalla Howell the DPS of Bar 48 in response to the Application for a Review of a Premises Licence under the Licensing Act 2003.

- The application for the Review is made by DS L. J Chamberlain on behalf on the Cheshire Police Authority. It is accepted at the outset that the Application is therefore made by a recognised responsible authority under the terms of the Licensing Act.
- The DPS of Bar 48 also accepts that the Applicant has complied with the requirements of subsection (3) (a) of Section 51 of the said Act and the Authority has complied with their requirements under subsections (3) (b) and (d).
- As the application is made by a recognised responsible Authority the Licensing Authority may reject any ground for review specified in this application if it is satisfied that the ground is not relevant to one or more of the Licensing Objectives (Section 51(4) (a) of the Licensing Act 2003) the grounds of it being frivolous or vexatious or a repetition do not apply in this context, however they can be considered by the Licensing Authority when considering the evidence placed before it in statement form and the written representations made in support of a review when deciding what weight if any to place on the evidence and the representations made.
- Any review must be about how the activities of the Premises are adversely affecting one of the Licensing Objectives. If a request does not relate to one of these objectives it must be deemed invalid. Evidence put forward therefore MUST explicitly link to one or more of the objectives.
- The Applicant puts forward all four objectives under the Act:
  - (i) **Crime and Disorder.** The Authority will be aware that this relates to any crime, disorder or anti-social behaviour related to the management of the premises. The licence holder cannot be responsible for the conduct of individuals once they leave the immediate vicinity of the premises.

The Applicant puts forward the following in support of this ground:  
"Fighting immediately outside the premises, noise nuisance (under this ground the noise must relate to potential breaches of the peace and not loud music), drink drivers and a positive drugs warrant." The Applicant also cites a rise in incidents of anti-social behaviour in the Alsager Town Centre.

The DPS has responded to these in her statement and based on the contents of that statement and on the Law as it relates to this licensing objective these grounds are not relevant for the following reasons:
  - (a) The incidents of Anti-social behaviour cover beat code EC17 namely the Town Centre. There is no direct causal link between those incidents and Bar 48, furthermore given the size of the area covered it is unreasonable for the incidents to be specifically related to this particular premises and the management of the same.

The specific incident referred to by PC Need on the 13<sup>th</sup> of February 2015 occurs after the Premises has closed its doors (the officer in his statement states that the door had been locked just after his arrival) and therefore the behaviour of the individuals concerned which is described as no more than shouting and play fighting cannot be directly linked to the premises, nor is there any evidence to show that these individuals had even been inside the premises before it closed.



(b) The "Positive Drugs," Warrant has no bearing within the review. Firstly it has still to be determined by a court of law whether the warrant was positive it is not for the Licensing Authority to make that determination. Secondly this occurred prior to the DPS taking over the premises. There have been no allegations in respect of drug related matters since she assumed the responsibility for running the premises and she and her staff maintain a zero tolerance in respect of drugs on the premises.

In order to bolster the case the Applicant refers to a suspected "drug related incident" in the time line attached to the application. Again this pre-dates the DPS taking over the management and is spurious at best. A male with a blue bag exits the bar and passes it to another male and money was exchanged. There is no evidence to show what the contents were or to show that the person exiting the bar was in any way connected with the management of the premises.

Whilst it is accepted that a Licensing Authority should take into account and recognise that certain Criminal Activity or associated problems may be taking place or have taken place despite the best efforts of the Licensee and Staff at the premises however the Authorities role is to promote the licensing objectives not determine the guilt or Innocence of individuals, such issues are for courts of law. Drink drivers: One incident is referred to, the only connection with the bar being that the person concerned occasionally carries out repairs at the property. He had not been drinking alcohol at the bar prior to being stopped and therefore reference to this is irrelevant and it should be struck out.

(ii) **Public Safety.** This relates to the Safety of the Public on the Premises, not off the premises.

There is no direct evidence of any incidents relating to a risk being posed to members of the public whilst on the premises. The premises complies with all Health and Safety issues and with the Fire Authority's recommendations and is a safe environment. The only potential matter referred to is the opinion evidence of PC Howard who states that when he attended at the property on the 6<sup>th</sup> of February 2015 he believed that there were 70 – 80 people in attendance during a private party. In his opinion the maximum capacity is 50. The DPS disagrees with the officer's estimate stating that there were between 40 and 45 people present, but in any event this occasion does not reflect the normal running of the bar and the number of people normally present, as it was a special occasion.

(iii) **The Prevention of Public Nuisance.** This covers a number of things such as noise, vibration, noxious smells, light, pollution and litter.

The Applicant seeks to show noise nuisance with three statements from Local Residents and goes on to state *"I could have gathered evidence from further residents who would articulate the same detail of events and the same effects."* Firstly it is not open to the Applicant to hypothesise what other people might or might not say and the DPS invites the Authority to totally disregard that comment. Indeed if this matter results in a hearing the DPS will be calling evidence from other residents to counter the evidence of the three witnesses, so the hypothesis cannot be correct.

In relation to the three statements provided the DPS has refuted these in her own statement. The statements are factually inaccurate, purely subjective and written with their own agenda. The Applicants own time line supports this in that an NME was installed on the 11<sup>th</sup> of April 2014 – collected on 14<sup>th</sup> of April 2014 – "No



*Entertainment.*” Thereafter despite complaints being made on several occasions and further equipment being installed no evidence is shown to support noise pollution and indeed the equipment installed on the 30<sup>th</sup> of May 2014 and the 3<sup>rd</sup> of June 2014 records “*Weekend – no noise.*” This directly contradicts the complaints made. Furthermore, as the Authority will note from the DPS’s statement that the primary purpose of the establishment is now a restaurant and the only source of music is a jukebox. In addition the Authority will have notice that Bar 48 closes at a comparatively early time, other establishments in the area continue to operate far later, at a time when any incidence of noise is understandably unacceptable.

- (iv) **Protection of Children from Harm.** This relates to protecting children from the activities carried out on the premises whilst they are on the premises. The only factor put forward in respect of this objective is the test purchase made by Trading Standards. The DPS runs a tight ship in relation to the sale of alcohol to anyone who is or appears to be under age and actively promotes the Challenge 25 scheme. All bar staff are trained in relation to the procedures to be followed in this regard and if there is any doubt at all the potential customer simply isn’t served. Staff log any incidents where people are turned away in a diary and there have been numerous occasions where people have been refused and turned away. It is unfortunate that this one incident slipped through the safety net – it resulted due to human error and was dealt with promptly by the DPS.

- As you as an Authority have to be satisfied that there is an evidential and causal link between the grounds put forward by the Applicant and the effect of the licensing objectives, given the above submissions the DPS respectfully submits to you that the application should fail on all grounds.













