

LICENSING ACT 2003

Environmental Health Consultation

Response



EP Ref: ELL/036512

Date Received:

6 May 2015

Name of Applicant:

Bar 48

Address to which application relates:

48 Crewe Road, Alsager, Cheshire East, ST7 2ET

Licence Review – Support Application

I Margaret Ruth Hopley being an Enforcement Officer within Cheshire East Borough Council and have been qualified since 2006 and recognised so by the Chartered Institute of Environmental Health.

This Division initially received an enquiry raising concern over the level of noise disturbance due to amplified music and noise from people coming and going from the premises. The initial complaint came via licensing and was seeking advice initially. In light of the detail of the alleged disturbances an advisory letter was sent to the premises on the 11th February 2014 advising them of the concerns raised (appendix 1). No response was received from the premises with regards to this letter.

On the 11th March 2014 this Division received a formal complaint as the levels of the music had not improved and therefore this Division commenced a formal complaint. Mikala Howell a member of staff did contact and she was informed to monitor the level of the entertainment from outside in different locations to ensure the levels were not too high and if they were deemed they were to adjust the noise levels accordingly and to record these actions. Spoke to the complainant who stated the Friday following the levels were reduced however on the Saturday there was a live singer followed by a DJ which was deemed excessively loud by the complainant again. On reviewing the premises licence it became apparent the premises did not have the provision for recorded music on their licence. On the 1st April 2014 I contacted Mikala Howell and advised her of this information that the premises licence only allowed for them to have live music and not recorded. It was also apparent through discussion with Planning they also didn't have the appropriate usage class on the premises to operate a bar. A letter was sent to Vanessa Powell the licence holder (Appendix 2) to inform her of this

information in order for the matters to be addressed and rectified. I spoke to Chris Powell on the 3rd April 2014 in response to the letter received regarding the lack of certain licensing provisions and planning permission.

I discussed with Chris the issues regarding the fact that they did not have permission for recorded music therefore the DJ's had been cancelled. He stated that the premises may become a tapas bar yet but reiterated that he did not have the correct planning permission to undertake such activities and advised me that he was going to contact a planning consultant. Currently the front of the property is only single glazed glass and is not sufficient attenuation. Advised Chris of this and he stated that he would look into and the potential for secondary glazing. From the conversation it was evident that Chris felt that one complainant causing the investigation was unreasonable. I informed Chris that the complainant had informed me that he could name the songs being played and one which was continually repeated was Robin Thicke - Blurred Lines. When I advised him of this he appeared to change his response. Chris informed me that he intended to have a live band/act this Friday and again reiterated to him that needed to ensure that the music was not excessive and to undertake walks outside to ensure it was not too loud.

Following this conversation further complaints were received regarding the volume of the music being excessive.

An additional complainant contacted me on the 8th April 2015 regarding the issues they were experiencing from Bar 48 also which were very similar.

Following receipt of completed diary sheets this Division installed the noise monitoring equipment on the 11th April 2014 into the complainants property for the weekend and on the 17th April 2014 for the duration of the weekend. On both occasions we were unsuccessful in recording due to events either having not taken place or the volume had been decreased.

However complaints continued so myself and a Licensing Officer Vilma Robson attended Bar 48 on the 22nd May 2014 following letters to the Premise Licence Holder Vanessa Powell and the designated premises supervisor Andrew Milner requesting a meeting and received no response.

On arriving we were greeted by a young female who we now know to be Megan Powell daughter of the Premises Licence Holder and were then met by Chris Powell. We asked if Vanessa Powell (Premises Licence Holder) or Andrew Milner (DPS) were present and were advised by Chris they weren't. We informed Chris that we had spoken to Andrew Milner earlier in the day who stated that he wasn't the DPS. Chris Powell suggested that he calls in to the bar every now and again; Andrew Milner had stated earlier that he hasn't been in the

premises. Chris Powell questioned as to why we keep speaking to him. At this point it became quite clear that Chris Powell was being obstructive. We then proceeded to explain the legal obligations. I advised him that we were continuing to investigate the complaints; Chris and Megan Powell stated that they had been round the neighbours and no one had a problem. The requirement for the correct planning permission was also discussed and the mitigation measures which would be required.

Following this meeting I met with Andrew Milner the DPS who stated that he had not been to the premises he had just been asked to sign a form which he had and so he signed a section 41 notice removing him immediately as DPS at Bar 48.

Reports of noise nuisance from the premises did continue however the premises appeared to be beginning to do external monitoring and Megan Powell would email me the monitoring which had been undertaken. This didn't last for very long. The noise monitoring equipment was installed on the 6th June 2014 for the weekend however around this period the entertainment changed to providing viewings of the World Cup.

Meeting was requested by Megan Powell in connection with the continuing complaints and the planning application. Kim Evans from the Licensing Division also attended to undertake a license check on 30th June 2014. Chris Powell was not present. Spoke to Megan Powell and Mikala Howell. A number of conditions were not being complied with so Kim Evans advised would revisit in 14 days to readdress. Visited the premises the following day to speak to Chris Powell in connection to the planning application and advised in detail of the actions that would be required in order to seek approval such as double or secondary glazing as the premises did not due to its structure attenuate noise.

From July 2014 onwards the regulated entertainment noise complaints reduced and became more ASB orientated as the nuisances were occurring on the street outside of the premises so were reported to the Police. During this period as well this Division were addressing matters through the planning application to vary the usage class from A1 retail to A4 drinking establishment. Appendix 3 shows this Divisions comments with regards to the planning application with Appendix 4 being the decision notice issued by planning stating refusal.

Following Christmas 2014 complaints were received again of alleged noise nuisance due to regulated entertainment. A visit was made to the premises on the 14th January 2015 along with Kim Evans from Licensing. The premises were open at the rear and all lights on but no response, we revisited on the 21st January 2015 and were advised by Megan Powell that Chris Powell was at the rear of the premises. He then was not present and was uncontactable despite numerous calls. A joint visit was then undertaken on the 16th February 2015 to the premises following a failed test purchase. Those present were Hannah Johnson Trading

Standards, Sgt Chamberlain Cheshire Police, Kim Evans Licensing Team Leader and myself. In addition to the failed test purchase this Division had received again recent noise complaints from entertainment at the premises and also reports of ASB due to people coming and going from the premises. The issues were discussed with Chris Powell, Mikala Howell and Megan Powell. Night of failed test purchase was Megan's 18th birthday believed premises had more than 50 people with in it. Gaming machine was not licensed even though Chris was adamant that there was a licence for it he was advised there was. A very detailed conversation was had by all departments present of the concerns and the continued lack of responsibility despite efforts by every department to try and assist and provide advise. We were advised during the visit that they were now looking to change from A1 planning usage to A3 restaurant usage hence the installation of the kitchen. The kitchen is extremely small and the menu was extremely limited with only 5/6 items on. It felt that the sale of alcohol would still be the predominant usage of the premises.

Throughout my involvement with the premises it has been felt that the owner Chris Powell and the premises licence holder or designated premises supervisor past and present have had no regard for local residents or the licensing objectives. Instead of matters being addressed and dealt with in a manner which would be expected by such individuals this has been deemed not the case and an alternative approach has always been found regardless of the impact and detriment to those around. This Division is therefore in full support of the review.

Signed: Margaret Hopley | Enforcement Officer | Environmental Protection

Dated: 1 June 2015



Mrs Venessa Powell
No 48
48 Crewe Road
Alsager
Cheshire
ST7 2ET

Public Protection and Health
 Westfields
 Middlewich Road
 Sandbach
 Cheshire
 CW11 1HZ

DATE: 11 February 2014

OUR REF: N33/011937

Please Contact: Margaret Hopley
 Direct Dial: 01270 686603
 Email: margaret.hopley@cheshireeast.gov.uk

Dear Venessa

Environmental Protection Act 1990
Complaints of Statutory Nuisance: People / Behavioural Noise from , 48 Crewe Road, Alsager

I am writing further to the conversation that you had today with Vilma Robson regarding a noise complaint that both the Licensing and Environmental Health Division received.

As you may imagine, Environmental Health receive many complaints of this nature, some of which, following investigation are found to be unjustified. However, as we have a statutory obligation to respond to all complaints received I am currently writing to you informally to ask for your co-operation in this matter.

Following discussion with Vilma she informed me that you have been advised to monitor noise levels from the premises during regulated entertainment on the perimeter of your premises. In doing so ensuring that noise from your premises is not causing a nuisance or disturbance to anyone else. Any checks undertaken shall be recorded should another complaint arise.

The complainant also raised concern regarding the noise levels generated by individuals stood outside the premises smoking. This again should be monitored by a member of staff as groups can soon congregate and this should be discouraged or a designated smoking area created which is away from residential properties.

Please note that the complainant at this stage is not wishing to proceed with a formal complaint as is hoping that the discuss with Vilma and this correspondence may see the matter resolved. We have therefore requested that the complainant come back to us if the nuisance continues to persist.

Should you wish to discuss the contents of the letter in further detail then please do not hesitate to contact me on the number above.

Yours faithfully

Margaret Hopley | Enforcement Officer | Environmental Protection

Cheshire East Council is the brand name of Cheshire East Borough Council



Mrs Venessa Powell
48 Crewe Road
Alsager
Stoke-on-Trent
ST7 2GL

Public Protection and Health
 Westfields
 Middlewich Road
 Sandbach
 Cheshire
 CW11 1HZ

DATE: 1 April 2014

OUR REF: N43/012104

Please Contact Margaret Hopley
 Tele No: 01270 686603
 Email: margaret.hopley@cheshireeast.gov.uk

Dear Sir/Madam

Environmental Protection Act 1990
Complaints of Nuisance: Amplified Music at Bar 48, 48 Crewe Road, Alsager

I am writing further to my letter of the 11th March 2014 regarding a complaint of noise nuisance arising from the above premises.

I now wish to advise you that it is my intention to pursue a formal investigation, as further information has been received which suggests that the complaint may be justified. In particular amplified music on a Friday and Saturday evening.

As part of this investigation noise monitoring equipment, or officer visits may be used to determine if a noise nuisance exists. If a Statutory Nuisance is witnessed then I am obliged by law to take further action, which may result in legal proceedings being taken against you.

Legal proceedings may include the service of an abatement notice on yourself. If you breach such a notice you may be liable to prosecution in a Magistrates' Court and could be fined up to £5,000 per offence. In addition, the Council may seek to take direct action to abate the nuisance which may involve the confiscation of noise making equipment.

At this stage if the alleged problem stops, then no further action will be undertaken.

Following further enquiries with Licensing and the Planning Division there are a number of other concerns which need to be addressed as a matter of urgency.

Planning

Having enquired with Planning it appears that the building currently has A1 usage (Retail) however you did apply for A5 (Hot Food takeaways) usage back in 2008 which was subsequently refused. For the current operations at the premises this would require A4 (Drinking Establishments) usage and needs to be addressed with planning as a matter of urgency as the operations are being undertaken illegally.

The contact details for planning are:

Email: planning@cheshireeast.gov.uk

Tel: 0300 123 5014

Please note that this has been reported to the Planning Division for them to investigate further.

Licensing

You currently do have a premises licence for Bar 48 which you are the premises licence holder. The premises licence permits the sale of alcohol and under the provisions of the Live Music Act 2012 you are permitted to play live music until 11pm however your licence **DOES NOT** permit recorded music i.e. DJ's. I therefore request that you cease playing recorded music or having DJ's in the premises until a variation of the premises licence has been undertaken.

The contact details for planning are:

Email: Licensing@cheshireeast.gov.uk

Telephone: 0300 123 5015

If for any reason you think that an investigation into this complaint is unjustified, or you have questions regarding the contents of this letter and its implications, please contact me on the above telephone number.

Yours faithfully

Margaret Hopley | Enforcement Officer | Environmental Protection

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Memo

Cheshire East
Council

To	Cheshire East Planning	Copy to	Adam Barnes
From	Margaret Hopley	Tel. No.	01270 686603
Date	29 th August 2014	Your ref	14/3757C
		Our ref	EL7/032654

Subject **PLANNING CONSULTATION WITH ENVIRONMENTAL PROTECTION**

Location: No 48, 48 Crewe Road, Alsager, Cheshire East, ST7 2ET

Proposal: Retrospective application for change of use of ground floor of premises from A1 (Retail) to A4 (Drinking Establishment)

This Service has considered the above planning application and wishes to make the following comments / recommendations.

The following recommendations DO NOT constitute planning conditions, however are intended to provide sufficient information to guide planning officers to adequately word conditions which are enforceable, justified and proportionate, in line with their own guidelines.

Where a planning officer considers that the recommended condition should be substantially altered, or not included on any final decision notice it is strongly recommended contact be made with the relevant officer.

REGULATORY SERVICES AND HEALTH COMMENTS

Margaret Hopley Tel: 01270 686603

DEMOLITION AND CONSTRUCTION PHASE OF DEVELOPMENT

INFORMATIVE

CONSTRUCTION HOURS OF OPERATION – Noise Generative Works

It is recommended that the hours of noise generative* demolition / construction works taking place during the development (and associated deliveries to the site) are restricted to:

Monday – Friday	08:00 to 18:00 hrs
Saturday	09:00 to 14:00 hrs
Sundays and Public Holidays	Nil

**For information "Noise Generative" is defined as any works of a construction / demolition nature (including ancillary works such as deliveries) which are likely to generate noise beyond the boundary of the site.*

NOISE AND VIBRATION

NOISE MITIGATION SCHEME

This Division has received complaints regarding amplified and live music emanating from the premises causing a potential nuisance to neighbouring residential premises. During the process of the investigation it has been evident that the structural integrity of the building does not and has not assisted in controlling noise emanating from the premises.

The premises currently is single glazed at the front and the front door has gaps around the door thereby causing pathways for amplified and/or live music to be emanate from the property.

This Division would wish to see it conditioned that the front windows are secondary glazed with 6.4 mm laminated glass and a cavity to be created between the existing and additional glazing. The air gap being 100mm.

It is detailed that the existing access door be retained but an acoustic lock be constructed. This Division requests further information and plans to be submitted showing the proposed double door system thereby ensuring that a door remains closed as customers are entering and leaving the premises. The concern of retaining the existing door is that the gaps around the door which at the bottom are considerable would still be a means of noise to emanate should the other door be left open.

A detailed scheme of acoustic attenuation measures shall be submitted to and approved by the Local Planning Authority within 4 weeks of any approval with works undertaken and completed within 3 months of approval. The proposed scheme must detail the attenuation to be provided by the secondary glazing, works to be undertaken to ensure no gaps are within the windows or main door and detailed plans of secondary door (double door system).

HOURS OF OPENING

The applicant has offered hours of opening and this Division would wish to see these hours conditioned as part of any approval granted.

Reason: In the interests of residential amenity

AIR QUALITY COMMENTS

Rebecca Shorrock

Tel: 01625 (3)83818

No Comments

CONTAMINATED LAND COMMENTS

Jonathan Cundall

Tel: 01625 (3)83816

No comments

This section has used all reasonable endeavours to recommend the most appropriate measures regarding potential contamination risks. However, this recommendation should not be taken to imply that the land is safe or otherwise suitable for this or any other development.

Mr Geoff Allen,
Geoff Allen Associates
198 SWANLOW LANE
WINSFORD
Cheshire
CW7 1JJ

Development Management
PO Box 606
Municipal Buildings
Earle Street
Crewe
CW1 9HP

email: planning@cheshireeast.gov.uk

DECISION NOTICE

Application No: **14/3757C**

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

Particulars of Development

Retrospective application for change of use of ground floor of premises from A1 (Retail) to A4 (Drinking Establishment) and installation of rear fencing and seating

Location

48, CREWE ROAD, ALSAGER, CHESHIRE, ST7 2ET

for **Mr & Mrs Powell**

In pursuance of its powers under the above Act, the Council hereby **REFUSES** to grant planning permission for the above development referred to in the application and accompanying plans submitted by you for the following reasons:

1. It is considered that the proposed development and use, as a result of the location and design, would be detrimental to the residential amenity of nearby residential accommodation by way of noise. The proposed development is therefore contrary to saved Congleton Borough Local Plan (2005) Policies GR1 and GR6.

INFORMATIVE

The Local Planning Authority (LPA), in reaching this decision, has followed the guidance in paragraphs 186 and 187 of the National Planning Policy Framework. The Framework advises that the LPA should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. A solution has not been reached that overcomes the

environmental harm as identified in the reason for refusal.
The plans to which the decision relates are as follows:PL01 and PL02.

Dated: 2nd October 2014

Signed



Authorised Officer for
Cheshire East Borough Council