

Application to review a premises licence	
Premises address	Cuckoo Inn, Hamptworth, Salisbury, SP5 2DU
Premises licence holder	The Trustees of the N J M Anderson 1988 Settlement C/O: Rose Hill Advisors
Leaseholder for the premises	Sacha Moussaieff
Designated Premises supervisor (DPS)	Nikolaos Amplianitis

1. Background

1.1 My name is Katherine Fowler, I am an Environmental Health Officer working in the Environmental Control and Protection team at Wiltshire Council. I have been employed by the Council for 8 years. I qualified as an Environmental Health Officer in 2013 and have been working in Environmental Health departments at different Authorities since 2011.

1.2 On 14th September 2022 I served an application for a review of the Premises Licence for The Cuckoo Inn currently held by The Trustees of the N J M Anderson 1988 Settlement. A representation has been made by the Environmental Control and Protection (EC&P) Team as it is of the opinion that the combination of the premises location being unsuitable to hold regular live and recorded music events in the outside areas and our lack of confidence in the existing management to effectively control and manage noise from events to promote the licensing objection of Prevention of Public Nuisance.

2. Location of the premises

2.1 The Cuckoo Inn is situated in Hamptworth a hamlet in the north of the New Forest. The property itself is Grade II listed and dates to the 1800s when it was originally built as two cottages and changed to a pub in 1901.

2.2 The pub has neighbouring residents to the east, west and south with the nearest residential property approximately 70m from the pub itself and 20m from the boundary of the pub's garden area. I enclose an OS view and ariel view of the pub denoting the location of residential properties and pub as **Exhibit 1a and 1b**.

2.3 The pub has a large external area with temporary gazebo structures providing a covered area for customers to the western side of the pub and a grassed area providing additional seating for customers on wooden benches to the front and west of the pub. The performance area is situated to the far west of the garden.

3. History of the premises

3.1 In 2015 this department was consulted on an application to vary the premises licence at the Cuckoo Inn to extend the sale of alcohol to the outside area, hold a beer festival in May and September, extend the opening hours until 00.00hrs for 12 days per year and erect a marquee in the garden for the playing of music.

3.2 Upon discussions with the Licensing department, we established that the beer festival had already been running for several years but had not been licensed to do so.

3.3 A site visit to the pub was carried out and I raised concerns with the proposals given the low background noise levels and likely impact from entertainment noise on the neighbouring residents. The application was amended to reflect our recommended changes including the submission of a Noise management plan (NMP) and conditions attached to their Licence to ensure compliance with the NMP and for music to finish at 11pm. The conditions are in annex 2b of the operating schedule in the Premises Licence.

3.4 Up until 2022 the premises operated without any formal noise complaints being made to this department.

4. Complaints

4.1 In June 2022 this department received notification from the Wiltshire Police licensing officer that several residents wanted to formally complain about the revised Cuckoo Inn Licence and weekly provision of events held outside with loud music until midnight on some occasions.

4.2 Since the new Designated Premises Supervisor (DPS) arrived in 2022 we had not seen sight of an updated NMP.

4.3 On the 28th June 2022 I received log sheets from four separate residents all noting that loud music had been causing disturbance every weekend throughout May and June. During the Beer festival which was held between 20th May and 22nd May live music caused disturbance from 13.00hrs to 23.00hrs every day.

5. Correspondence with the Premises

5.1 Following a phone conversation with Mr Amplianitis (DPS) I sent an email on 21st June 2022 advising him to create a NMP detailing how he will be managing and controlling noise from the premises to prevent causing a public nuisance. I advised him of the current conditions on the Premises Licence.

5.2 On 29th June 2022 Alastair Day, Police Licensing Officer, Katherine Edge, Licensing Officer, and I carried out a joint visit to the premises. We met with Mr Ampalanitis (DPS), Sacha Moussaieff (DPS employer and leaseholder of the pub).

5.3 I advised Mr Amplianitis that they were not complying with conditions on their licence and current NMP as it was evident from the log sheets received that music had been played over three days during the beer festival and on consecutive weekends for the other events. Both of which were restricted on the NMP to Fridays and Saturdays for the beer festival event and non-consecutive weekends for other events to minimise potential disturbance to neighbouring residents. He advised that prior to my email he was not aware of the conditions on the Licence. He provided me with a NMP, almost a replica of the previous one.

- 5.4** I advised that the EC&P team would be investigating the noise under Statutory nuisance provisions and would be monitoring the noise at the next events. Mr Amplianitis assured me that he was managing the noise from events and had bought a noise meter to monitor the sound levels. I informed him that he could use it as a reference but should not rely solely on this and instead should make a judgement as to whether the music is too loud at the boundary of the residential properties, These types of meters will not consider the bass level from music and instruments played. I explained that due to the very low background noise levels and proximity of residents amplified music especially with certain types of instruments will almost always be audible at the residential properties.
- 5.5** I strongly advised Mr Amplianitis to consider the frequency of events held, duration of music, type of bands hired to play (restricting to softer genres of music and avoiding bands with drum kits, bass and electric guitars which will be louder and produce bass which will travel further), providing residents with sufficient notice, complaints procedure and effective subjective noise monitoring, taking corrective action to reduce the volume at source if required.
- 5.6** On 5th July 2022 Mr Amplianitis sent me an email advising that the next event planned would be on 10th July with live music between 12pm and 6pm. The beer festival would be on Friday 2nd September to Sunday 4th September with live music between 5pm and 11pm on Friday and Saturday and no music on Sunday. They would ensure no 'thrash metal' style of music will be played. They would also provide residents with 14 days written notice of the beer festival but would be unable to give it for the upcoming event. They will also monitor the noise throughout the event.
- 5.7** On the 6th July 2022 I replied to Mr Amplianitis email advising that each band should play for no more than 1hr 15minutes providing 2.5hrs of music throughout the day to avoid causing disturbance to residents.

6. Noise monitoring 10th July 2022

- 6.1** The noise monitoring equipment was installed in the complainant's property on 6th July 2022. Upon analysing the recording and in accordance CIEH Noise Council Code of practice on Environmental Noise control at concert guidance background noise levels were identified as 34dB throughout the duration of the event. Music noise was clearly audible inside the property and noise levels were 13dB higher than background noise levels. Noise levels increased to 18.5dB above background noise levels once the second band started playing from 3pm. This is a significant increase and likely to adversely impact on residents enjoying the use of their property and could prevent someone sleeping if this volume of music was played during the evening. The noise from this band was much more intrusive due to the increase in volume of noise, type of instruments played (electric/bass guitars and drums), genre of music being rock and the harsher vocals.

7. Further correspondence

- 7.1** On 20th July 2022 Katherine Edge, Licensing officer and I met Mr Amplianitis to discuss the recent noise monitoring. He was aware that this monitoring was taking place as we had already advised him at the previous meeting. I showed him my analysis of the recordings

pointing out that the second band was noticeable louder and more intrusive than the first. He agreed stating he thought they would be loud when unloading their equipment, and he too thought the volume was loud. It was clear that effective monitoring had not been carried out and evident no corrective action was taken to reduce the volume. I reiterated the importance of a NMP and following it. A follow up email was sent to the Licence holders advising of our findings and significant concerns with frequent amplified music events at this premises.

8. Noise monitoring 3rd September 2022

8.1 On 3rd September 2022 Trish Morse carried out a visit to monitor noise from the beer festival at the premises. The complainants advised Trish that the music played last night was much louder and at the end of the night the band were inciting the crowd to cheer and be noisy to wake up the neighbours. Having listened to a video produced by the complainants the lead singer can be heard on 2nd September 2022 at 22.58hrs saying 'is it actually possible for you to get any fucking quieter, could you, oh it is' and 'let's get loud, oh we can' and 'can you turn her up a bit'.

8.2 At 21.13hrs Trish visited another complainant's property on Hamptworth Road and installed the noise monitoring equipment. Music started playing from the pub when the equipment was being set up. The complainant stated it was quieter than the previous evening. The songs played were identifiable with words to songs still heard with the doors closed. Moving into the lounge of the property with the TV on the music noise could be heard over the sound from the TV.

8.3 At 21.50hrs Trish returned to the first complainant's property she visited. On their front patio the noise from the amplified music was clearly audible and the complainants stated that they would not have been able to have their own background music on as the noise from the band at the pub would have affected their enjoyment of their garden on a summers evening.

8.4 At 22.15hrs in the main bedroom of the complainant's property on the first floor with the window open music from the band playing at Cuckoo Inn was clearly audible and in the opinion of Trish Morse the noise levels were unreasonable and would prevent someone sleeping in that room and in Trish's opinion would amount to a statutory noise nuisance.

9. Statutory noise nuisance

9.1 On 30th August 2022 I received notification from a complainant stating that residents were notified of the beer festival event 7 days before, despite Mr Amlianitis own written noise control measure stating he would provide 14 days' notice.

9.2 Having listened to the noise recordings it was evident that the music noise is clearly audible with lyrics of the songs identifiable with the doors of the property open. The music is still audible with the doors closed, though the words of the songs cannot be distinguished in most of the recordings. At 22.38hrs on 3rd September 2022 a recording is made with the doors in the dining room of the property open. The song playing is identified as Queen,

Don't stop me now. On the 4th September a recording is made at 14.11hrs and half way through Green Day, Boulevard of Broken Dreams is clearly audible albeit quieter than the previous evening.

9.3 On 14th September 2022 I contacted David Pardoe, Rosehill Advisors, Sarah Taylor at Poppleston and Allen and Mr Moussaieff to advise that we had witnessed a statutory noise nuisance at the complainant's property on Saturday 3rd September from the playing of loud music at the Cuckoo Inn. I was advised that the leaseholder of the premises, Mr Moussaieff appointed legal advice and a noise consultant to carry out an assessment and implement a sufficient NMP. Therefore, as appropriate steps had been taken, we agreed to withhold the service of the abatement notice in accordance with the relevant period as defined in Section 80 of the Environmental Protection Act 1990. I also confirmed that this department would be applying to the Licensing department to review the licence with a view to disapply the Live Music Act 2012 and impose conditions in accordance with the noise consultants' recommendations.

9.4 During a telephone conversation with Richard Vivian of Big Sky Acoustics he agreed that the location of the premises was not suitable to host events outside with live amplified music on a regular basis, if at all. We agreed that as the beer festivals had historically always taken place they could continue if they were controlled effectively, with the possibility of a few other events throughout the year, though these would need to be restricted by time and duration of music played to ensure noise would not disrupt sleep. Due to the nature of the area and low background noise levels it is inevitable that noise from music played outside will be audible at neighbouring residential properties and therefore strict control measures would need to be implemented to protect the residents and prevent a public nuisance.

10. Noise Management plan

10.1 On 7th October 2022 I received an email from Sacha Moussaieff with their new Noise Management plan attached. Sacha confirmed in his email that they agreed to the restrictions I had proposed to limit the number of events held at the premises and restrict the duration amplified music could be played outside. I enclose a copy of their new noise management plan as **Exhibit 6a in the hearing report**.

10.2 Mr Vivian has provided guidance to Mr Amlianitis and Mr Moussaieff on the subjective assessment of music noise when events are held outside and if music noise is audible at the monitoring locations it should be at a low level such that vocals should not be distinguishable, and there will be no obvious bass. I can confirm that I am satisfied with the current NMP that has been submitted.

11. Summary

11.1 It is my opinion that without effective management and strict control measures the premises is unsuitable for the provision of frequent outdoor events with live and recorded music.

11.2 I have a lack of confidence in the competency of the current management to effectively control noise from events. This is evidenced throughout verbal and written advice and guidance provided to Mr Amlianitis on at least five occasions which has not been

followed. Mr Amlianitis has also failed to adhere to his own NMP allowing bands producing louder volumes of music to play, incidents of enticing crowds to make more noise, playing amplified music on the Sunday of the beer festival, not providing sufficient notice to residents, all whilst reassuring us this would not happen.

11.3 This department has investigated the noise nuisance under statutory nuisance as defined in the Environmental Protection Act 1990 and witnessed a statutory nuisance at the complainant's property. Furthermore, a public nuisance has been caused by the DPS' inability to effectively manage and control noise from music events held at the premises. The prevention of public nuisance licensing objective has not been adequately promoted by Mr Amlianitis (DPS) and the Licence Holders (N J M Anderson Settlement).

11.4 The current arrangements are complicated, but the leaseholder for the premises and likely future Premises Licence Holder has shown co-operation and following recent correspondence has agreed to our proposals set out below. However, over the last 6 months there has been a breakdown of trust between all parties and the residents require reassurance and additional protection going forward to prevent similar issues recurring. The live music act deregulation should be disapplied to allow enforceable conditions to control music noise from any events held at this premises and for the prevention of public nuisance licensing objective to be adequately met. We would therefore recommend that the committee undertake the following actions.

Recommendations

1. The provisions of the Live Music Act 2012 be disapplied to this premises
2. That conditions to the following effect are attached to the premises licence:
 - a) Restrict the number of events that can be held at the premises annually to:
 - i) Two beer festivals one in May and one in September. Amplified music only to be played on the Friday and Saturday, no amplified music on Sundays.
 - ii) Up to an additional four events with amplified music outside through the remainder of the year with a maximum of one per month.
 - b) Restrict the duration and time amplified music can be played outside:
 - i) Beer festivals: A total of 3 hours of music per day with an end time of 22.30hrs
 - ii) For the other four events no more than a total of 1hr 30minutes (x2 45-minute sets with a 30-minute break) and music to end by 21.00hrs.
 - c) Noise must be managed in accordance with the Noise Management Plan submitted to the Licensing Authority. Any changes to the noise management plan must be agreed in writing by the Licensing Authority.