

Representations for licensing review:

Mr Harry Brewer is a Director of Halix Limited the premises licence holder. He would like to express his sincere apologies that his neighbours have felt the need to submit an application to review the premises licence for the Rock Garden. Mr Brewer opened the Rock Garden in June 2013 and in accordance with the permitted use under the planning permission used the garden area of the premises until midnight.

Mr Brewer has been aware that his neighbours have been concerned with the level of noise from customers in the garden and music from inside the premises since mid August 2013. However it was not until September that he was made aware of the extent of complaints. He has since then endeavoured to work with the Environmental Health Officer to address those concerns, including meeting with some of his neighbours. Early on in the discussion with the Environmental Health officer he voluntarily agreed to close the garden at 9.30pm and then 10pm and reduce the capacity in the garden from 150 to 100 persons, which was in place by October 2013 previously in September it had been reduced to 11pm. In addition an SIA security guard was specifically deployed in the Garden. Signs were erected to ask customers to be mindful of the neighbours. There were also issues raised about the emptying of glass bins prior to 9am this was immediately addressed. The collection of waste early in the morning was raised earlier this summer and Mr Brewer immediately addressed that by changing supplier for the collection of his waste ensuring it was collected later in the morning after which he received no further complaints.

The outside garden area is in a unique position. It has been described by the Environmental Health Officer as akin to an Amphitheatre whereby the applicant for the review, who lives in a property which is high above the garden, hears the conversations of those in the garden at a higher volume than if you were standing in the Garden itself. The Environmental Officer describes that as a "phenomenon." Indeed in the application for the review it is clearly stated by the applicant that he was "amazed we could hear her conversation with colleagues standing next to her." It is important to understand the context of the complaint because the Rock Garden is well managed and the premises licence holder has taken all reasonable steps to address the complaints about noise.

With regard to the noise from amplified live music being heard this was addressed by adding a lobby to the rear of the property, which was completed towards the end of October 2013. Further relocating the stage to a different part of the premises where the bands played (from the mezzanine to the ground floor and as far from the rear garden as possible), as well as changing position of the speakers. Subsequently Mr Brewer was under the impression that nuisance from amplified music was no longer a problem. The Environmental Health Officer has confirmed recently they had not subsequently witnessed any noise nuisance from music and their issue was only with the level of noise from customer using the garden.

Mr Brewer was made aware of complaints about amplified music after these works but on the dates complaints were made no live music was taking place at the Rock Garden but was taking place at another nearby licensed premises.

Mr Brewer engaged a noise consultant. Noise monitoring equipment was placed in the Garden. He attempted to contact the applicant to arrange for noise monitoring to be carried out in his flat. He left several messages on an answer phone but the applicants did not get in touch with him, so this could not be done, which is extremely regrettable. As the Garden was not in much use during the Winter and early Spring months and access to the neighbours property was not forthcoming, it made an assessment of what steps to take to prevent the nuisance of conversation coming from the Garden, that much harder. Mr Brewer does not recall any complaints about noise from the garden from October 2013 to April 2014. The consultant recommended erecting a frame with acoustic "sails" to deflect the noise. Those works were completed in October 2014 delays occurred because of the experimental nature of the work. They were completed in phases as different materials were tried as well as different positions for placement of the "sails."

The cost of what has been undertaken so far has been in excess of £15 000, which does not take into account the loss of income from reducing numbers in the garden and closing it earlier than the

premises close. The level of investment to address the issue of noise shows Mr Brewers commitment as a responsible licence holder, taking appropriate and proportionate steps to promote the licensing objectives. This is not someone who has ignored the problem. It is however, a "unique garden", "a phenomenon." The issue of noise here is entirely different from a complaint about noise from a poorly managed licensed premise.

Blake Morgan LLP solicitors for the premises licence holder.

9th October 2014