

**What are you making a representation about?**

I am making a representation about the license application as a whole.

It is simply not possible for the applicant to promote the licensing objective to prevent public nuisance, due to the incredibly close proximity of the premises to our residential premises. My first hand experiences of having a licensed premises next door for almost a decade has confirmed all my former concerns, and presented additional issues. The current applicant is the partner of the former license holder, and collectively as a couple have never sought to resolve any issues I have raised, they have only acted after persistent intervention from other responsible authorities, such as Licensing, Environmental Health, Police, Local Fire and Rescue. The only satisfactory resolution I have ever experienced in this time has been when the pub is closed and unoccupied.

**Licensing Objective/To prevent public nuisance**

Public nuisance... 'The reduction of the living amenity of other persons living in the area of the licensed premises' This extract from Revised Guidance issued under section 182 of the Licensing Act 2003 succinctly describes my experience of The Flag.

I am in the unique position of having had to endure nearly a decade of continual nuisance and disturbance from these premises, firstly under the short lived management of the original owners, then under the joint involvement of the applicant, Christine Westbrook, and her partner, and former premises license holder, Robert Sandham. So I am very well placed to voice my legitimate concerns from a position of long term, first hand experience of public nuisance.

Firstly, understanding the micropubs proximity to our home is paramount when making decisions regarding its impact on our lives, and the detriment caused to our ability to enjoy our home due to noise and disturbance. To describe the pub as 'next door' or 'adjoining' does not go far enough to paint a true picture of its proximity to my home. We occupy the same building, which was built circa 1900, which, over time, has been separated into four premises. There are two business premises on the ground level, an electricians office and the pub, and my home, and on the first floor level my home extends across and above the pub (This is called a flying freehold) and there is also a flat. The business premises occupied by the pub had formerly always been office use since we moved in nearly twenty years ago. It is worth noting that the entire footprint of the bar area is situated beneath two residential bedrooms, mine and the flat. Due to the age and structure of the building, sound travels easily through walls, ceilings and floor voids. It is no exaggeration to describe the pub as being in the other room, rather than next door, especially when you are in the bedroom trying to sleep at night, it is no different to having a group of people downstairs in your own home.

When we were initially approached by the first people who wanted to set up the micropub, we were completely opposed to the idea of having a pub next door. We were concerned about noisy drinkers disturbing us at all hours and all the associated issues that come along with a pub and alcohol consumption. We were assured at great length, and in great detail, that a micropub was a completely new and different concept, and nothing like a normal pub. We were told that due to its small size it would be impossible for the internal occupancy to exceed 30 people, and that the focus of the enterprise was to promote conversation in an intimate environment, without the distraction of music, games machines or TVs showing live sports. This philosophy would be further promoted through the sale of craft ales, and that lager and alcopops would not be served, in order to deter a particular type of clientele who could be rowdy. In addition to this we were told that sound proofing measures would be installed to insulate our property from noise. We were eventually convinced by their sales pitch and made no representations to the planning application. The planning officer involved in the application made the following, now seemingly prophetic, statement;

‘The use of the premises as a standard public house would be likely to lead to an adverse impact on the residential amenities of the adjoining residential unit. However, the use of the premises as a micro-pub would be unlikely to adversely impact on residential amenities due to the nature of the operation...’

On the first day of opening I came home from work to find a large crowd of drinkers gathered on the pavement outside the pub and my home, some gathered around my lounge window, using the window sill as a place to set down their drinks, and more people gathered round my front door, with others sat on the doorstep blocking access to my home. I had to ask them to move so I could get through my door, only for them to sit back down once I passed. The original owners stood in the street socialising with the drinkers and couldn't care less. From the point of getting their license and permissions signed off, and opening up, they were no longer interested in speaking to us and blanked us whenever approached. We also realised very early on that the soundproofing in the party wall was installed ineffectively, and that no sound attenuation measures had been taken in respect to the void between the pub ceiling and our bedroom floor, so stuffing some acoustic insulation behind the drywall was a pointless exercise.

At some point in the first year of opening, the ownership then changed hands, and Robert Sandham and Chrisitne Westbrook entered the picture. This is where things started to get a lot worse. Tables and chairs appeared outside the pub and outside our house, with no consultation or an application for a Pavement License, after hours drinking became commonplace and access to the rear of the property was blocked by dozens of barrels and bags of waste blocking the alley.

Granting a new license in the name of the other half of this couple is just reinstating the terrible conditions me and my partner have had to live with all these years and we have absolutely zero faith in anything the applicant may suggest or propose in the application, as it would just be paying lip service to gain a license, and based on my experience, the licensed hours and conditions stated on the license are meaningless, the applicant and her partner have just done

whatever they wanted, with no fear of any consequences, from day one to the lapse of the previous license. For years, licensed hours and operating hours have been ignored, after hours drinking is a routine set in stone at the premises. Down come the black out blinds, the front door is locked, and drinking continues, to any given time. When customers eventually leave, Christine Westbrook and Robert Sandham usually continue drinking on the premises, with frequent, seemingly drunken, arguments ending proceedings, with shouting, swearing, door banging, all of which is clearly audible from our bedroom above. Quite often Robert Sandham is heard asking Christine Westbrook to leave the premises so he can lock up, reminding her of their operating hours and that they are being recorded on CCTV, this is frequently met with opposition and continued shouting and arguing. Then we have the setting of the alarm to deal with when they eventually decide to leave, it has a countdown to allow time for them to exit the premises, we have to listen to all this, as Robert Sandham shouts at Christine Westbrook to get out as the alarm counts down, arguing, shouting, swearing, banging the front door, all whilst seemingly intoxicated, then they run out of time or the door sensor trips the alarm as they try to lock up, we then have the alarm screeching while they try to get back in and turn it off and try all over again. All this is usually past midnight and has been a regular occurrence. The applicant and her partner have never shown, and will never show, any regard or consideration for the impact their actions, and the proximity of their premises, have on our ability to enjoy our home. Any attempt by Licensing to resolve our complaints have been met by continual, deliberate attempts to avoid any cooperation or compliance, the use of CCTV has proved to be absolutely useless for evidence gathering, as requests for recordings have been ignored, and data eventually just deleted. When recordings have been supplied the time stamp on the footage is inaccurate, so the evidence is useless. Although declared null and void, the most recent license review regarding this issue just concluded that the license should be suspended for a short period and, in that time, the license holder should go on a course to learn how to use the CCTV equipment? This does not reassure me that conditions such as these on the license carried any kind of weight or deterrent factor for the former license holder, so by virtue, his partner, the current applicant, will no doubt share the same attitude of not taking license conditions seriously.

For all this time, the balance of compromise has been tipped completely in the favour of the pub, which has enjoyed the freedom to operate how and when they want, with little to no consequence. This has been wholly to the detriment of our ability to ever remotely, and reasonably, enjoy our home, let alone the use of our master bedroom, whilst the pub is in operation. There is also the cumulative impact of not only the noise but all the additional problems collectively. The after hours drinking, the shouting and arguing, door banging, the alarm going off at all hours. The long running issue of tables and chairs being set up on the pavement with no consultation or license, customers drinking outside in the street, gathered outside our home, in front of our lounge window, putting their drinks on the window sill, sitting on our doorstep, leaning and banging against the front door, having to excuse yourself as you try to get in and out of your own home. The loss of access to the rear of our property to take our bin out, due to barrels and bags of glass waste piled up in the alley way. It is also worth noting that the premises seemingly do not have enough space to function as a licensed premises, as they seem to be reliant on the pavement for excess custom, empty barrels have to be kept on private

land to the rear, that does not belong to the premises, and there doesn't even seem to be room for their bins, which were kept at their home address, whilst black bags containing glass bottles and waste were dumped in the alley before eventually being transported away for collection? The rear alley is a means of access for all four properties in the building, but the pub has repeatedly blocked this time and time again.

The premises also has a long history of resolving issues and complaints, only to repeatedly revert back to doing the same thing after a short period of time. This includes after hours drinking, placing tables and chairs on the pavement without a license and blocking access through the rear alley with barrels and bags of glass waste. This either shows that this couple are collectively, completely unaware that they have reinstated an issue they previously agreed to resolve, or, they are deliberately deciding to start doing it again, which means they are making a conscious choice to be a nuisance, and that the temporary fixing of the problem was just to get the council off their back, and was not driven by any genuine understanding of how the issue affected us and a desire to make things better. Either way, it does call into question the applicants suitability to be granted a Premises License, as this couple have a track record of telling the council what they want to hear when in reality they have no intention of adhering to anything agreed upon. Imagine how this made us feel, when we thought matters had been resolved, only for them to reinstate them right under our nose without a care in the world. I think this a very telling sign of their true nature and a perfect example of poor management competency giving rise to issues of public nuisance.

**Please suggest any conditions that could be added to the licence to remedy your representation or other suggestions you would like the Licensing Sub Committee to take into account.**

Please consider the following as 'suggestions' on hours and other conditions NOT 'conditions that could be added to the license to remedy my representation' I am only making these suggestions so that they can be taken into account if we find ourselves in the unfortunate position that this application is granted, which I truly hope it is not. When I first saw the notice in the pub window, after nearly five months of peace and quiet, due to the premises being closed, I felt physically sick.

I also feel it is important to add that, if this license application is granted, with conditions, that the applicant seriously needs to be educated on licensed supply of alcohol hours and hours premises are open to the public. How do we protect against noise nuisance arising from lock-ins/after hours drinking? This appears to be a grey area where conditions do not apply, if the till is closed and no money changes hands, it's seemingly considered a private party on the premises. This matter is of great concern to us and is the main reason for us asking that a Premises License is not granted. We understand that lock-ins/after hours drinking are long standing traditions in pubs, the unique issue with these premises is the very close proximity to our home and bedroom.

May I also suggest the following conditions for consideration;

No Live Music at any time

No Recorded Music at any time

No TV (e.g; showing live sport)

No Off Sales (Taking into account The Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendment) Regulations 2023)

No alcohol to be taken off the premises as described in the site plan of the premises included in the application (In order to prevent noise disturbance and antisocial behaviour from external drinkers and, more importantly, to enhance the ability of the council to police the placing of table and chairs on the pavement without a pavement license, which has been a repetitive and very long running issue for many years)

General hours could revert back to original micropub closing times;

Monday to Thursday 16:00 - 21:30

Friday 16:00 - 22:30

Saturday 12:00 -22:30

Sunday and Bank Holidays 12:00 - 21:30

In respect to the additional events applied for, for the sale of alcohol;

May Market 12:00 - 23:30 - The event runs from 10:00 - 15:00 every Early May bank holiday Monday. I struggle to see why this event, which ends at 15:00 would be grounds for the pub to trade until 23:30, especially as the following day is a working day. Bank holiday Mondays are more like an extension of the weekend and I feel they should be treated the same as a Sunday in respect to trading hours, so 12:00 -21:30 seems reasonable for the MayMarket/Early May bank holiday. The original micropub application made no distinction between Sundays and Bank Holidays and combined the two together in respect to requested hours for sale of alcohol.

The Wakes 12:00 - 23:30 - The annual street fair held on the last weekend in October. The fair is set up on the Wednesday and runs from Thursday to Saturday. It operates for the following times - Thursday 18:00 - 22:00, Friday 18:00 - 22:00, Saturday 14:00 - 22:00. Again, I struggle to see why the pub wishes to start trading at 12:00 on the Thursday and Friday, when the Wakes do not start until 18:00. As for the Saturday, the applicant has already requested to start trade at 12:00 on this day of the week. In respect to the sale of alcohol ending at 23:30 on the nights of Thursday, Friday and Saturday during the Wakes, and bearing in mind the Wakes close at 22:00 each night, I cannot see the necessity and that it is reasonable for the sale of alcohol to cease at the same time as any other Thursday, Friday, Saturday, as proposed above, so Thursday 21:30, Friday & Saturday 22:30.

Download Festival 12:00 - 23:30 - I cannot understand why a music festival two miles away is grounds for the pub to open earlier and close later. The festival takes place annually on the second weekend of June from Friday to Saturday, but festival goers can arrive from Wednesday onwards. The application is not specific on which exact days it wants the hours to apply, but assuming it refers to Friday, Saturday, Sunday of the actual festival, then it should NOT include the preceding two days of Thursday and Friday when festival goers start to appear in Castle Donington. I feel clarification is required but overall I do not agree with this additional request for the Download Festival, as the already proposed hours for Friday, Saturday and Sunday are sufficient, especially as sales would already start at 12:00 on Saturday and Sunday anyway, and it is reasonable to question, again, why a music festival two miles away is cause for later hours at the pub, surely festival goers will be attending the festival?

Christmas Eve 12:00 - 23:30 - I am completely opposed to this, it's unnecessary, it's not a Bank Holiday, and therefore should be just left as a normal day of the week and whatever hours the license allows for the particular day it falls on each year.

New Years Eve 12:00 - 23:30 - I understand that it is completely unreasonable to raise issue with New Years eve

We also need Bank Holiday clarification, especially in regard to Good Friday, Christmas Day and Boxing Day. For example, the premises traditionally opens at lunch on Christmas Day, but based on this application the pub could only open at 12:00 if Christmas Eve happened to fall on a Saturday or Sunday, as no specific application has been made for Christmas Day or any other Bank Holidays (Other than the early May Market which falls on Early May bank holiday monday) I suggest, as above, that all Bank Holiday hours mirror Sunday hours of 12:00 -21:30 to avoid any ambiguity or confusion in the future.

This business has been built on an unstable foundation of contravention of conditions and lack of permissions, so any financial detriment they may suffer by now having to comply with conditions or not receive premises/pavement licenses is entirely their own fault and I would ask that such factors should not be taken into account by the sub-committee when making decisions.

Making decisions based on the fact that there are other licensed premises in the vicinity is not appropriate. Conditions on a premises license must be tailored to the individual type, location and characteristics of the premises. No other pubs in the village are located beneath another residential premises bedroom. We are not affected by other pub's customers, or anyone walking by in the street, we never have, as no one has cause to congregate outside of our house. The only reason these people are outside our home is because of The Flag. It has been made clear that this cannot be controlled as it is off the premises, and to a large extent, not the licensee's responsibility. We get stuck in this grey area.

I'm not interested in the usual cookie cutter suggestions used in the past, for example, putting a sign up asking customers to exit quietly? It makes no sense, when have had to listen to internal

and external noise from drinkers all evening, to suggest that intoxicated patrons will take the time to read a sign by the door and maybe walk away quietly is absurd and pointless

It is worth noting this excerpt from Revised Guidance issued under section 182 of the Licensing Act 2003 - Section 2. The licensing objectives/Public Nuisance Sub-section 2.27;

Encourage patrons in the immediate vicinity of the premises to respect the rights of people living nearby to a peaceful night.

The legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include: protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises.