

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, specifically noise disturbance, due to the incredibly close proximity of the premises to our residential premises. My first hand experiences of having the former licensed premises in the next room, for almost a decade, confirmed all my former concerns, and presented additional issues. The only satisfactory resolution I have ever experienced whilst living at my property for nearly twenty years, has been during the periods of time that the small, retail unit next door has been used for more realistic purposes, i.e; office use or retail, or when the licensed premises was 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 having a licensed premises next door.

I am in the unique position of having previously endured nearly a decade of continual nuisance and disturbance, arising from the small retail unit next door being used as a licensed premises. So I am very well placed to voice my legitimate concerns from a position of long term, first hand experience of public nuisance arising from the granting of a license such as this.

Firstly, understanding 32 Borough Street's 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 No.32 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 small retail business premises on the ground level, No.32 and No.34 (A small clothing shop) and my home. On the first floor level my home extends across and above No.32 (This is called a flying freehold) and there is also a flat. The small empty retail unit currently located at No.32 had formerly been The Flag micropub from April 2014 to November 2023, and before that the premises had always been used as an office, ever since we moved in nearly twenty years ago. It is worth noting that the entire footprint of No.32 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 No.32 as being in the other room, rather than next door.

Prior to the period that No.32 operated as a licensed premises, this caused no issue, as we purchased our property on the understanding that No.32 would be used for office and retail use,

and the property title for No.32 contains a restrictive covenant, preventing it from being used as a cafe, restaurant, takeaway or licensed premises. The 9-5 operation of a shop or office works in perfect harmony with a residential dwelling next door, so we had no issues.

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, and permission was granted for a micropub. 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.

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.

Previously, the balance of compromise has been tipped in the favour of the licensed premises, which 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 bar below is in operation.

Call the premises what you will on paper; micropub, wine bar, and everything else in between, it makes no real difference on the ground, it's just a venue for people to imbibe alcohol, which leads to people becoming intoxicated, which invariably leads to people getting louder and less

inhibited. So from the very outset, the proposal of a licensed premises is to consider a thing that causes a noise disturbance, the consideration factors that then follow are how can this disturbance be mitigated by limiting the duration of such activities and the proximity of these activities to nearby residential dwellings. In this particular case, where no effective sound attenuation measures are realistically possible, the mere consideration of allowing a licensed premises at this location, is to start with a bedrock of causing a detrimental noise nuisance, and can only move forward to implement partial measures to limit it slightly through shorter hours, no music, etc, but there is no happy medium or middle ground to be had here, as the licensed premises will always gain something at the cost of us losing.

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' 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. The former micropub has gone, the property has been stripped out and returned to an empty shell of a retail unit, I was really hoping that the ridiculous notion of these premises being a suitable location for a licensed premises was dead in the water. It felt like being punched in the stomach when, after eight months of peace and quiet, I had someone knocking on my door to say they were considering turning the empty retail unit back into another boozier. I was given plenty of verbal assurances about the concept of it being a wine bar and that no one would be taking their drinks outside, etc, but past experience has hardened me to the fact that such things are absolutely meaningless, unless set in stone as conditions.

May I suggest the following conditions for consideration;

No Off Sales. No alcohol to be taken off the premises as described in the site plan of the premises included in the original granted planning permission and the license application (In order to prevent noise disturbance and antisocial behaviour from external drinkers) or at the very least, no alcohol to be taken off the premises in open containers for consumption outside.

May I bring your attention to Application Reference 14/00739/VCI - Variation of planning condition 5 of planning permission 13/00963/FUL (See attached documents)
In which, under 'Third Party Representations' the following representation was received;

'Extending the hours will lead to additional people congregating on the street which will result in detriment to residential amenities'

Under 'Residential Amenity' the planning officer responded with the following;

'In terms of the representation received in relation to the congregation of people in the street it is considered that Condition 5 of the consent outlines that the uses of the site shall be confined to

the application site, outlined in red on the site location plan submitted in support of application reference 13/00963/FUL, which does not include the public highway. Should people be consuming goods purchased from the premises on the street then this would be in a breach of the planning permission and as such would be enforced by the Council's Planning Enforcement team'

This was unfortunately a case of closing the stable door after the horse has bolted, as patrons of the licensed premises had always congregated outside the premises to drink, and always did. It has been made very clear to me by previous licencees that the backbone of the business surviving, in such a tiny premises, was the utilisation of all the free space on the street for customers during the summer months. The former licensee had been overheard numerous times stating that the business is just not viable without customers spilling out onto the highway, due to the incredibly limited floor space inside. Although I brought the above statement to the attention of the Council on numerous occasions, I have been lead to believe that they found themselves in a contradictory dilemma, in that an off license had already been granted, so consumption of alcohol purchased on the premises was permitted in the street, even though it was also a planning breach? I was also told that the highway was the jurisdiction of Leicestershire County Council highways department, not North West Leicestershire District Council. I was also advised that my only recourse for the issues arising from drinkers congregating outside my home, would be either LCC highways for blocking the pavement/road, the Police for anti-social behaviour, or Environmental Health for noise disturbance. Which is all well and good but I don't see why we should have to police such issues if they arise.

I believe that the most simple solution, which would go a very long way in limiting the disturbance we would experience from external drinkers, especially in summer months, would be the removal of OFF SALES from the license or not permitting OFF SALES. The person who approached me to advise of their plans for the premises stated that no one would be congregating outside with drinks, so I don't see that there should be any issue in having NO OFF SALES, as it is the simplest solution to resolve numerous issues. Plus the planning officer previously stated that no one should be drinking outside anyway. Not unless there are clandestine plans to boost profitability by using the street as an unlimited capacity beer garden, which has been the case historically, then I assume the applicant will have no issue with this condition. The use of a pavement/cafe license is only of use to control positioning of table and chairs, where no pavement/cafe license exists, there appears to be no control of patrons in the street if an off sales license has been granted.

Please also consider the addition of the following conditions to the license, if it is decided that it shall be granted, which I sincerely hope it is not.

No Live Music at any time

No Recorded/Amplified Music at any time

No TV (e.g; showing live sport)

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.

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 we 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.