

APPENDIX C

From: Tom Montague

Sent: 01 August 2016 11:12

To: EHL Safety

Subject: Barcode Restaurant, Application licence number: 1445/3/2016/03819/LAPREN

SJM CON ENDS 03.08.16 VALID PPN (B)

Dear Sir or Madam,

I write to object to the granting of a license to serve alcohol at Barcode, 128 Church Road, Hove BN3 2EA.

Between July 2015 and May 2016, these premises caused an ongoing statutory noise nuisance in the form of a noisy extractor flue which caused a loud, industrial-sounding, buzzing noise for 15 hours a day, 7 days a week. This caused distress to neighbours and Environmental Health were involved (case officer: Emma Bullen), serving a noise abatement order in September 2015. After months of prevaricating, Barcode eventually agreed to run the flue at 40% operating capacity in order to mitigate the noise.

This respite lasted about 6 weeks. Since mid June, the flue has again been intermittently operating at full capacity, causing noise which is in breach of the original noise abatement order and which causes a disturbance to immediate neighbours. The industrial noise it emits has changed the character of Osborne Villas from a residential street to a commercial area. This last weekend (30th and 31st July) the flue has been particularly intrusive.

This noise represents a public nuisance and on this basis, I don't believe these premises should be granted a license to serve alcohol. I also think it's concerning that there is a lengthy history of non-compliance from these premises with various council departments who have attempted to work constructively with them, including Environmental Health, Planning & Regulatory Services. Whilst the named point of contact for this particular license application may have changed from the previous rejected one, the day-to-day management of these premises - and therefore the underlying issues - remains the same.

Please can you take residents' concerns seriously, as we are the ones who have to live with the consequences of your decision.

Yours faithfully

Thomas Montague

7 Grosvenor Mansions, Osborne Villas, Hove BN3 2RX

From: Andrew Wealls

Sent: 03 August 2016 11:11

To: Sarah-Jane McNaught; EHL Safety

Subject: Barcode Application 1445/3/2016/03819/LAPREN Councillor Representation

SJM CON ENDS 03.08.16 VALID PPN (C)

Dear Sarah Jane,

Please ensure that my comment regarding this application is passed on to the Licensing Committee which will consider this application.

There is a long history of disturbance from a flue to the rear of the premises, which is designated a statutory noise nuisance when the power is turned up beyond 40. The unit has again been designated a statutory noise nuisance, in spite of the current management's insistence that the power has not been turned up beyond 40. An inspection by Environmental Health officers on 24th July noted that the power was at 46 and the flue was again a statutory noise nuisance. The mechanism by which the power may be varied is currently accessible by all staff, and clearly has been altered in spite of notices requiring that it is not set beyond 40.

I request that a licence is WITHHELD until the new business owner, Mr Mohammad Abdolkhani, can demonstrate to the absolute satisfaction of an Environmental Health officer, that it is impossible for anyone, other than the DPS to alter the power of the extractor. Given the history of these premises and the understandable suspicion of those living nearby, it would be sensible to ensure this condition is IN PLACE BEFORE a licence is granted. I do not consider it to be a sufficient condition that this is the case, as I am concerned a great deal of resource will be expended enforcing the condition should a licence be granted before the provision is implemented.

I also request that, should a licence be granted it is for an initial period of one year only. That will ensure that all additional conditions, whether suggested by Environmental Health and Licensing or the Committee have been fully respected, and that a new application is required in a year's time once compliance has been clearly demonstrated.

Thank you for your support.

Yours sincerely

Councillor Andrew Wealls

Conservative Member for Central Hove

From: Ben Holst

Sent: Tuesday, August 02, 2016 05:42 PM GMT Standard Time

To: Sarah-Jane McNaught

Subject: Re: Barcode Restaurant - protect

SJM CON ENDS 03.08.16 VALID PPN & PCD (D)

Hi Sarah-Jane

My main license objection is in terms of public nuisance. They are consistently in breach of noise regulations and despite noise abatement orders they continue to run their very loud extractor making their neighbours lives a misery.

In terms of selling alcohol without a license I would expect this to be relevant in terms of Crime and Disorder.

Clare Moonan (Labour Councillor for our ward) went in to Barcode a couple of days before the previous licence hearing and was sold a beer at a point that Barcode did not have a licence. She took a photo of the receipt and the beer. Perhaps you can pick up directly with her. I believe she is objecting as well, but not sure if she will be including the above in her objection.

Would it count as crime and disorder if they deliberately ran up a huge debt tax liability to HMRC and the local council, approx £180k, and then just liquidated the company, wrote off the debt, and continued in business as though nothing had happened? It certainly feels wrong to me, but perhaps not illegal.

I am most concerned that if Barcode are granted a license, they will never have any incentive to ever cooperate with the council again. They still have not fixed their excessive noise problem, and actually seem determined to not do so. This is literally driving people from their homes.

Regards, Ben Holst Flat 8 Grosvenor Mansions Hove BN3 2RX

Environmental Health and Licensing
Brighton & Hove City Council
Bartholomew Square
Brighton
BN1 1PF

Tanya Petherick
Flat 1, 22 Medina Villas
Hove,
BN3 2RL

1st August 2016

●**License number: 1445/3/2016/03819/LAPREN Barcode Restuarante**

SJM CON ENDS 03.08.16 VALID PPN (E)

Dear Sirs,

We are writing to object to the above application to serve alcohol, for the following reasons.

1.The previous licence application for this premises was rejected by the Licensing Panel on June 13th 2016, on the grounds of the problems local residents, including ourselves, had encountered with the managers of Barcode (Emad & Foad Abdulkhani), relating to public nuisance and breaches of conditions.

2.Evidence of the sale of alcohol without a licence was not submitted in time to affect the licensing committee's decision; however, indications were that alcohol had been sold to Councillor Moonan on the premises without a licence.

3.In addition to the breach of licensing conditions, Environmental Health have issued a noise abatement order to the Abdulkhani's in relation to a large, noisy flue which in addition to being a noise nuisance does not have planning permission. Whilst we understand that this is not a direct licensing issue, the noise from the flue is an ongoing problem, a noise abatement order has been broken, and we believe it adds context to the fact that the owners of Barcode are not following Council orders. This extractor fan was installed one year ago on 29th July 2015. It has caused us, and other local residents, extreme distress since it was installed. Since the fan was installed we have been unable to use our garden, and sit with the windows closed on warm days to try and reduce the noise nuisance. This situation has caused us considerable upset. We are particularly frustrated as we thought this issue had been resolved and for a period of about 2 months, the noise had been within a tolerable level, however, in the last 2 weeks the noise has reached its former level. We are at a loss as to why a fan which was being kept within an acceptable tolerance and has recently been turned up again.

4.Barcode has been run by Emad and Foad Abdulkhani since it opened in 2013, however, ownership of the restaurant appears to be changing through the guise of different limited companies on a regular basis. The former licensing application was made by Code Hove Ltd, who listed Sara Hohendahl as the sole director. Since the rejection of the licensing application, Sara Hohendahl has resigned as director and was replaced by Emad Abdulkhani on 31st July 2016. A new company, Taji Ltd, owned by Mohammad Abdolkhani was registered at the same address on 20th June 2016. Our fear is that, as Mohammad Abdolkhani shares the

same surname as the current occupants, he is a member of the same family and will not respect licencing conditions or environmental health orders. We would like to request that in the course of their decision making, the licensing panel makes certain beyond doubt that they are satisfied that Barcode Restaurante is willing and capable of upholding all and any conditions placed on them by the council. Further we would like them to clarify why the ownership of Code Hove changed after the creation of Taji limited, and what impact this has on the day to day operations and future of Code Hove. Further, we would like the licencing committee to clarify when Mohammad Abolkhani's tenure at Barcode Restaurante started. If it is prior to 3rd August, we would like to understand the involvement of Foad and Emad Adulkhani who are both still present in the restaurant and to confirm that the noise abatement order has been recorded as broken as twice in that period.

Given the history and the upset and distress we have experienced, we would like to propose:

- Mohammed Abdolkhani runs Barcode Restaurante for 6 months to prove that he is a suitable person
- Mohammed Abdolkhani agrees to attend a meeting arranged by Cllr Wealls to understand the concerns of local residents and puts measure into effect to ensure there are no further issues
- Reducing noise from the fan is a condition of the license and it is clear that a single breach is a breach too many
- If a license is granted, that it is granted for a maximum of 12 months

Yours sincerely,

Tanya Petherick

From: patricia robinson

Sent: 03 August 2016 16:18

To: EHL Safety

Subject: License Number 1445/3/2016/03819/LAPREMr

SJM CON ENDS 03.08.16 VALID PPN (F)

To Brighton & Hove Licensing Departing

I should like to object to this application for a new alcohol premises license for Barcode Restaurante at 128 Church Road Hove made by Mr Mohammad Abdolkhani. I live directly opposite these premises in Grosvenor Mansions, Osborne Villas, Hove.

I am very concerned that the council may grant a license to someone who may not be actually running this business and may be only a named "front" person for the purposes of getting an alcohol license. It is important to look at the actual ownership of the premises and to look at who has been running this business since 2013. The Land Registry Title Deeds No ESX241531 for 128 Church Road Hove show the freehold title of 128 Church Road belongs to Mr Ali Abdolkhani care of Avallon 55 Tongdean Avenue, Hove, BN3 6TN. The ground floor with basement of 128 Church Road Hove has operated as a restaurant since November 2013 and has been run continuously since that date to the present day by Mr Foad Abdolkhani and his brother Mr Emad Abdolkhani. The original license for these premises was issued to Barcode Hove Limited in November 2013 and the DPS was Mr Foad Abdolkhani. Barcode Hove Ltd went into liquidation in December 2015 with debts of £172,141.11. A new application under a new company name of Code Hove Limited with Mr Foad Abdolkhani as the DPS was made in May 2016 and at a hearing of the Licensing Panel on 13th June 2016 this application was refused. The sole director of Code Hove Ltd, Ms Sara Hohendahl, attended the Licensing Panel hearing but she has since resigned as a director on 31 July 2016 and Mr Emad Abdolkhani was appointed the new sole director of Code Hove Limited also on 31st July 2016. The Licensing Panel made it clear that the reasons they refused the licence were because of the ineffective management of this business and the frequent non-adherence to the conditions of the license.

We are now presented with a new application by a Mr Mohammad Abdolkhani and it is stated on the application that he is trading as Barcode Restaurante at these same premises, 128 Church Road Hove. Mr Mohammad has told one of our Councillors that he is not related to Mr Foad and Mr Emad Abdolkhani. Is this new applicant a sole trader who is the new exclusive owner of this business? Or will this business now operate under the auspices of a new company called Taji Limited whose sole director is a Mr Mohammad Abdolkhani and who was appointed on 20th June 2016 and gives his address for correspondence as 128A Church Road Hove, the first floor of these premises which Mr Foad Abdolkhani had listed as his residential home on previous licence applications? Has the new owner purchased the freehold of the building or just the restaurant business? As a local resident I

am very suspicious of this transfer of ownership because of the way this business had been run these last three years, in particular its non-adherence to the licensing conditions. The Council need to be properly satisfied before granting any licence that the applicant Mr Mohammad Abdolkhani is properly running the business and is qualified to do so and is not a "front" for the prior management and that the business will not be effectively run by the prior management whose previous application was refused on the grounds of ineffective management and non-adherence to the conditions of the licence. In this instance and order to be absolutely certain the Council should ask to see the legal documentation transferring the business/property from the current owner to the new owner and Mr Mohammad Abdolkhani should be happy to comply with this.

In July 2015 Barcode installed an industrial sized flue to ventilate their basement kitchen which has proven to be a considerable public nuisance. This flue is extremely large and noisy and very visible from the road. It was installed without planning permission and without any consultation with the environmental health dept to ensure the correct equipment was installed. It runs for seven days a week from around 8.00am until well past 11.00pm and has caused a serious noise problem for the local residential neighbours. If it runs above 40 per cent of its capacity it breaks the noise abatement notice that the environmental health department served on Barcode. It has consistently run above the 40 percent level since it was installed with the exception of a six week period just before and after the last licence hearing on 13 June 2016. This may give the cynical impression that Barcode's owners only complied with the noise abatement order that was served on them when it suited their purposes, in this case when they needed the council to grant a new premises licence in order to serve alcohol. It should be a condition of any licence that this flue can only be operated up to the limit of 40 per cent capacity and it should be engineered so that it is not possible to operate at a higher level.

Finally I would ask that any new licence retains the extra condition regarding the closure of all the side windows on Osborne Villas from 8.00pm each evening and that the licence should only run for no more twelve months to ensure there are no ongoing issues regarding ownership and the operation of the flue.

Mrs Patricia Robinson

Flat 4 Grosvenor Mansions Osborne Villas Hove BN3 2RX

From: Clare Moonan
Sent: 03 August 2016 23:06
To: Sarah-Jane McNaught
Subject: Barcode Application 1445/3/2016/03819/LAPREN Councillor Representation

Dear Sarah

SJM CON ENDS 03.08.16 VALID PPN (G)

I am writing to object to the above license on the basis that I believe the applicant will not meet the Council's licensing objective to prevent public nuisance.

There is a long history of problems with this premises. Although the current application is under a new company name, I feel that the licensing committee needs to clearly establish the exact relationship between the new applicants and the previous management. Also that the previous applicant or license holders will not be involved in implementation of any new alcohol license. Under the previous management I was sold alcohol at the restaurant when they had no license. They have been breaches of condition, such as closing windows in the evenings. Most significantly, after many months of working to address the noise issues created by the extractor fan, there has been a recent breach of the noise abatement order imposed by the council.

If a license is granted I request that all the previous conditions are retained. In addition I would like a condition that the extractor fan is controlled so that it cannot be raised above 40.

I would like to attend the panel hearing to discuss these concerns in more detail.

Best wishes

Cllr Clare Moonan
Labour Councillor for Central Hove Ward
Deputy Chair Neighbourhoods, Communities and Equalities
Lead member for rough sleeping
Chair West Area Housing Panel

WITHDRAWN REPRESENTATION

Health & Safety and Licensing
Bartholomew House
Bartholomew Square
Brighton.
BN1 1JP

Date: 7 July 2016
Our Ref: ELB/2016/05323/EPLIC/EH
Contact: Emma Bullen
Phone:
Fax:
e-mail:

Dear Sarah-Jane

SJM CON ENDS 03.08.16 VALID PPN (A)

Licensing Act 2003

I refer to the application for a variation to the premises licence for
Barcode, 128 Church Road, Hove

I wish to make a representation on the grounds of public nuisance under the provisions of the Licensing Act 2003. An investigation has recently been carried out following complaints from local residents about noise from a fan unit that had been installed at 128 Church Road, Hove. As a result a noise abatement notice was served and eventually complied with provided the fan only operates at 40.0.

The conditions suggested in the application should be included on the licence.

There will be no regulated entertainment and the side doors and windows abutting Osborne Villas will be kept closed after 20.00 hours, other than for entry and egress

Customers wishing to go outside to smoke will not be allowed to take any drinks outside and will be encouraged as far as practical to use the street entrance fronting onto Church Road.

Notices will be displayed to that effect asking all customers to respect the neighbours and leave the area quietly.

I would also suggest the following conditions

1. The fan which is controlled by the Invertek IP66 speed controller must only operate at 40.0 in order to prevent the likelihood of complaints being received.

2. The fan must be turned off while the restaurant is closed from 11.00pm until 8:00am Mondays to Saturdays and 09:00 and 22:30 on Sundays and Bank or Public Holidays.
3. The speed controller should remain locked at 40.0 and only the restaurant manager has access to change the speed

Should the above conditions be agreed by the applicant I would be happy to withdraw my representation

Yours sincerely,

Emma Bullen
Environmental Protection Officer