

## PLYMOUTH CITY COUNCIL

**Subject:** Review of Premises Licence  
**Committee:** Licensing Sub Committee  
**Date:** 1 August 2017  
**Cabinet Member:** Councillor Riley  
**CMT Member:** Dr Ruth Harrell (Office of the Director of Public Health)  
**Author:** Frederick Prout (Senior Licensing Officer)  
**Contact details:** Tel: 01752 304792  
e-mail: [licensing@plymouth.gov.uk](mailto:licensing@plymouth.gov.uk)  
**Ref:** ERS/LIC/PREM/  
**Key Decision:** No  
**Part:** 1

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### **Purpose of the report:**

An application has been received from Devon and Cornwall Police under Section 53A of the Licensing Act 2003 for the summary review of the premises licence in respect of the Clarence, 31 Clarence Place, Stonehouse, Plymouth.

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### **Corporate Plan 2016 to 2019:**

This report links to the delivery of the City and Council objectives and outcomes within the plan.

**Growing:** The Licensing Policy provides a balance between the need to protect residents against enabling legitimate businesses to operate within a necessary and proportionate regulatory framework.

**Caring:** Reduce Inequalities as the Licensing Policy has put in place an appropriate framework that will allow decision-makers, when considering applications, to reduce the impact on safety, well-being and local amenity on the local community. The licensing system must minimise the burdens on business and to allow communities the opportunity to influence decisions.

See [Our Plan](#)

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### **Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land:**

Not applicable

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### **Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:**

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

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### **Equality and Diversity:**

Has an Equality Impact Assessment been undertaken? No

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**Recommendations and Reasons for recommended action:**

That Members consider this report.

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**Alternative options considered and rejected:**

None

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**Published work / information:**

For more information please see the below links.

[Statement of Licensing Policy](#)

[Licensing Act 2003](#)

[Revised Guidance issued under Section 182 Licensing Act 2003 - April 2017](#)

[Summary Review Guidance](#)

**Background papers:**

Title	Part I	Part II	Exemption Paragraph Number						
			1	2	3	4	5	6	7
Application									

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**Sign off:**

Fin		Leg	2862 4/ag/ 20.7. 17	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the content of the report? No													

## **I.0 INTRODUCTION**

I.1 On the 03 July 2017 the licensing department received an application from Devon and Cornwall Police under Section 53A of the Licensing Act 2003 for a summary licence review in respect of the Clarence situated at 31 Clarence Place, Stonehouse, Plymouth.

### **I.2 Review application.**

Superintendent Craig Downham submitted a certificate together with an application for the review of the premises licence to the licensing authority signed by him on 03 July 2017 stating that the premises (Clarence) were associated with both serious crime and serious disorder.

Upon receipt of the application the Licensing Authority had to give consideration as to whether it was appropriate for any interim steps to be taken pending the outcome of the review hearing. This decision had to be made within 48 hours and could only be made by members of the Licensing Committee.

The interim steps that the licensing authority was able to consider were:

- Modification of the conditions of the premises licence.
- The exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence.
- Removal of the designated premises supervisor from the licence and
- Suspension of the licence.

In accordance with review proceedings at 3.53pm on 03 July 2017 a licensing officer from Plymouth City Council attended the premises and gave a site notice to Mr Ross Beveridge and attached a site notice to the post of the street name outside the premises and a parking sign at the side of the premises.

At 3.10pm the same day a similar notice was displayed on the public notice board at the Council House, Armada Way, Plymouth.

The licensing Sub Committee met on 04 July 2017 to consider whether it was necessary to impose interim steps pending the review of the licence. The police and premises licence holder were present at the meeting.

Taking into account all the information available to the committee at that time, the committee decided that it was appropriate to take the following interim steps:

To modify the licence and as such the following conditions would be added:

- I) In the absence of the General Manager, Mr Wills, a Personal Licence Holder must be present on the premises during opening hours and must actively manage the premises in Mr Wills' absence.
- II) The Premises Licence Holder must take steps to train his staff in the Licensing Act 2003 and dealing with disorderly behaviour. Evidence of the steps taken must be provided to the committee at the final review hearing on a date to be set.

Having considered interim steps the Licensing Authority must now review the licence and reach a decision within 28 days of receipt of the application.

## 2.0 LICENSABLE ACTIVITIES

These premises have the following licensable activities and timings.

### **Premises opening hours**      **Time From**      **Time To**

Monday to Saturday

10:00      00:30

Sunday

12:00      00:00

Non Standard Timings:

New Year's Eve: from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day

### **C. Indoor sporting event**

Monday to Saturday

20:00      00:00

Sunday

20:00      23:30

Non Standard Timings:

New Years Eve: from the end of permitted hours on New Years Eve to the start of permitted hours on the following day

### **E. Performance of live music (Indoors)**

Monday to Saturday

08:00      00:00

Sunday

08:00      23:30

Non Standard Timings:

New Years Eve: from the end of permitted hours on New Years Eve to the start of permitted hours on the following day

### **F. Playing of recorded music (Indoors)**

Monday to Saturday

10:00      00:00

Sunday

12:00      23:30

Non Standard Timings:

New Years Eve: from the end of permitted hours on New Years Eve to the start of permitted hours on the following day

### **G. Performance of dance (Indoors)**

Monday to Saturday

20:00      00:00

Sunday

20:00      23:30

Non Standard Timings:

New Years Eve: from the end of permitted hours on New Years Eve to the start of permitted hours on the following day

### **I. Provision of facilities for making music (Indoors)**

Monday to Saturday

20:00      00:00

Sunday

20:00      23:30

Non Standard Timings:

New Years Eve: from the end of permitted hours on New Years Eve to the start of permitted hours on the following day

### **J. Provision of facilities for dancing (Indoors)**

Monday to Saturday

08:00      00:00

Sunday

08:00      23:30

Non Standard Timings:

New Years Eve: from the end of permitted hours on New Years Eve to the start of permitted hours on the following day

### **M. The sale by retail of alcohol for consumption**

#### **ON and OFF the premises**

Monday to Saturday

10:00      00:00

Sunday

12:00      23:30

Non Standard Timings:

New Years Eve: from the end of permitted hours on New Years Eve to the start of permitted hours on the following day

2.1 Conditions attached to the licence (Appendix 1)

### **3.0 RESPONSIBLE AUTHORITIES**

3.1 *Environmental Health* – have made representations with regards to the licensing objective of the Prevention of public nuisance. (Appendix 2)

### **4.0 OTHER PARTIES**

One representation has been made from a resident. (Appendix 3)

### **5.0 CONSIDERATIONS**

5.1 In making its decision the Committee is also obliged to have regard to the application and any relevant representations, take any such steps if any as it considers appropriate for the promotion of the licensing objectives, which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

In making its decision the Committee is also obliged to have regards to:

The guidance issued under section 182 of the Licensing Act 2003 with the following paragraph's relevant to this application: Paragraph 12.1 – 12.2, 12.3 – 12.9, 12.10 – 12.16, 12.17 – 12.21, 12.22 – 12.28, 12.32 - 12.34.

The Council's own Licensing Policy with the following headed paragraphs being relevant to this application: Licensing Hours (Page 11), Designated Premises Supervisor (Page 13), Preventing Glass Injuries (Page 13), Public Nuisance (Page 16 - 18) and Licensing Conditions (page 20), Review of premises licence (Page 22 - 23)

Also the representations (including supporting information) presented by all the parties.

5.2 The steps are :

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

Where the committee takes a step in 5.2 (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

The committee must secure that, from the coming into effect of the decision made on the determination of the review the interim steps having effect pending that determination cease to have effect (except if they become steps to be taken under 5.2 above).

### **6.0 RIGHT OF APPEAL**

6.1 An appeal may be made to the Magistrates Court within 21 days of the licence holder being notified of the licensing authority's decision. An appeal may be made by the premises licence holder, the chief officer of police and / or any other person who made relevant representations.

- 6.2 The decision of the licensing authority following the hearing will not have effect until the end of the period allowed for appeal or until the appeal is disposed of. Any interim steps taken will remain in force through this period.

**ANNEX 1 - MANDATORY CONDITIONS (PREMISES LICENCE - ON & OFF SALES)****All supplies of alcohol**

1. No supply of alcohol may be made under this Premises Licence-

- (a) at a time when there is no Designated Premises Supervisor in respect of the Premises Licence, or
- (b) at a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.

2. Every supply of alcohol under the Premises Licence must be made or authorised by a Person who holds a Personal Licence.

**Irresponsible drinks promotions**

1. The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

2. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -
  - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
  - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

3. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

**Age verification policy**

1. The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

2. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

3. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -

- (a) a holographic mark, or
- (b) an ultraviolet feature.

### **Alcoholic drink measures**

1. The responsible person must ensure that-

- (a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-
  - (i) beer or cider: ½ pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

### **Permitted price**

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of this condition -

- (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) “permitted price” is the price found by applying the formula  $P = D + (DxV)$  where:
  - (i) P is the permitted price
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of Value Added Tax chargeable in relation to the alcohol as if the Value Added Tax were charged on the date of the sale or supply of the alcohol;
- (c) “relevant person” means, in relation to a premises licence -
  - (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any)
  - (iii) the personal licence holder who makes or authorises a supply of alcohol;
- (d) “relevant person” means, in relation to a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) “Value Added Tax” means Value Added Tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph (2) would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.



4. (1) Sub-paragraph (b) below applies where the permitted price given by Paragraph (b) of paragraph (2) on a day (—the first day) would be different from the permitted price on the next day (—the second day) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

## **ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

### **A Supply of alcohol**

- Any existing conditions attached to existing justices licence
- The authorised hours for the sale of alcohol do not prohibit:
  1. during the first twenty minutes after the end of authorised hours the consumption of the alcohol on the premises;
  2. during the first twenty minutes after the end of authorised hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
  3. during the first thirty minutes after the end of authorised hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals;
  4. consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;
  5. the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
  6. the sale of alcohol to a trader or club for the purposes of the trade or club;
  7. the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
  8. the taking of alcohol from the premises by a person residing there; or
  9. the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or
  10. the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of alcohol so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

### **B Conditions that have been agreed with The Environmental Health Authority**

1. Windows and doors will be kept shut after 23.00hrs
2. The door lobby is to be in use at all times of entertainment
3. A senior member of staff (manager) will assess the impact of any noisy activities on neighbouring residential premises at the start of the entertainment and periodically throughout the entertainment. If noise emanating from the premises is clearly audible one metre from the façade of the nearest residential property action will be taken to reduce the noise level

### **C Steps that have been taken to promote the four Licensing Objectives**

#### General

1. Staff banned from drinking on duty
2. Drugs warning notices on display
3. Zero tolerance to drugs use and dealing

4. Policy of banning customers for misbehaviour within or in vicinity of premises where deemed necessary and appropriate
5. Availability of soft drinks, non-alcoholic and/or low alcohol beverages at all times
6. Food available (snacks only)

#### The Prevention of Crime and Disorder

1. Specific staff training and supervision in assessment of customer consumption and condition
2. CCTV system installed covering internal and external areas
3. Retention of tapes/discs etc. for a minimum of 30 days
4. No cheap alcoholic drinks promotions cut-price drinks, 'package deals'
5. Pro-active policy against 'binge' drinking
6. No drinks hoarding
7. Zero tolerance to offensive behaviour
8. Regular glass collection

#### Public Safety


1. Regular dedicated cleaning of premises

#### The Prevention of Public Nuisance

1. Freephone or similar taxi facility
2. Nominated staff to deal with complaints from neighbours
3. CCTV and/or regular monitoring of external areas of premises at night

#### The Protection of Children from Harm

1. Dedicated area for children
2. Warning notices in place in relation to under-age drinking
3. Full training for staff in law specifically relating to minors and alcohol and specific photo I/D proof of age requirements

<p><b>MEMO</b></p> <p>Public Protection Service</p>	 <p><b>PLYMOUTH</b> CITY COUNCIL</p>
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<b>Licensing Act 2003</b>	
<b>Environmental Health Representation</b>	
From:	Will Tomkins
To:	<b>Head of Licensing Section</b>
FAO:	<b>Fred Prout</b>
Date:	12 <sup>th</sup> July 2017
Schedule Ref:	<b>TC/890579</b>
Investigating Officer: Will Tomkins	Extension Number: 304740
<b>Application Details</b>	
<b>Premises: Clarence, 31 Clarence Place, Stonehouse, Plymouth, PL1 3JP</b>	
<b>Representation</b>	
This department would like to make the following representation:	
<b>I consider the premises to undermine the following licensing objectives:</b>	
The Prevention of Public Nuisance	
<b>The likely effect of granting the licence as applied will undermine the licensing objectives because:</b>	
<i>(How will the application undermine one or more of the four licensing objectives – under each objective explain what problems would occur if the licence were granted as applied for. Provide evidence/experience where possible.)</i>	
<b>The Prevention of Public Nuisance</b>	
Information from the Environmental Health Department following application for the review of the premises licence made by Devon and Cornwall Police:	
<p>The current premises licence holder took over the premises on the 13<sup>th</sup> January 2017. From this date Mr Ross Beveridge became both the premises licence and designated premises supervisor. The Clarence is within a mixed use area with businesses operating nearby during the day and a number of nearby residential properties on the right hand side and to the rear of the public house. (See Appendix A)</p>	

On the 6<sup>th</sup> February 2017 the Environmental Health Department received a complaint of noise from a local resident. The complaint stated that the noise from the Clarence pub was thumping through the residential property.

On 8<sup>th</sup> February 2017 the Environmental Health Department received a complaint from another local resident. The complaint stated that there was noise from music and patrons. Patrons are also drinking outside in the street and are intimidating.

On the 24<sup>th</sup> February 2017 Will Tomkins Environmental Health Officer made a site visit to The Clarence where he met with the premises licence holder Mr Beveridge. Mr Beveridge informed him that the pub has live music on Friday and Saturday nights between 9 and 11pm. All musicians bring their own equipment to the public house. When the bands are not playing the pub plays music through a juke box via wall mounted speakers. Mr Beveridge stated that they would move the live music to the front of the pub to see if it reduced the noise levels. Mr Tomkins explained the noise investigation procedures to Mr Beveridge and that officers work Friday and Saturday Nights. Mr Beveridge requested that should noise level be found to be excessive then a call should be made to Barney Wills who works in the pub.

On the 24<sup>th</sup> February the EH Out of Hours Service received a call from a local resident. Statutory Nuisance was witnessed from within a residential property by Environmental Health Officers Christine Hollis and Patrick Vawdrey.

On the 1<sup>st</sup> March 2017 Will Tomkins Environmental Health Officer served Mr Beveridge with Noise Abatement Notice served under section 79(g) of the Environmental Protection Act 1990. Copies were delivered by hand to The Clarence and a second copy handed to Mr Beveridge at his home address. Mr Beveridge stated that the pub would stop having live music acts following the notice.

On 4<sup>th</sup> March 2017 a call was received by the EH Out of Hours Service that the pub had been playing house music between 6pm and 7:45pm and lyrics were clearly audible in the residential property. The Officers did not visit as the noise has ceased.

On 7<sup>th</sup> March 2017 Will Tomkins spoke to a resident who confirmed that noise levels had improved since the pub had stopped having live music.

On the 14<sup>th</sup> April 2017 a call was received by the EH Out of Hours Service. Officers visited a nearby residential property. The resident had asked them to turn it down, which they did for a few seconds, then turned it right up again. Second call at 23:03 – must have been one last blitz, as pub was now closed.

On the 15<sup>th</sup> April 2017 a call was received by the EH Out of Hours Service. Officers visited a nearby residential property at 23:07 "faint beat audible through wall, not audible above TV. Beat audible in bedroom, but not audible over traffic noise (traffic very transient). Loud speech heard outside bedroom window."

On the 21<sup>st</sup> April 2017 a call was received by the EH Out of Hours Service. "Comp called to say music on going and that it was being turned up and down. Call aborted at 22:25 comp stated that music was off but large crowds of people in the side and rear lane and had been singing Oasis songs. Complainant believes the Police attended although they had not called them and moved people around to the side of the premises. We stated we would visit area to assess anyway. Called to say the music levels had increased again. On arrival, we parked to the rear of the pub and could see many people outside. Music was audible but the people noise was more dominant with lots of swearing and shouting. Visited complainant who stated music had been turned off again. No music audible in the front room with or without TV on. Complainant stated that now it was after 11:00pm she did not think it would get loud again. We left and walked around the side of the Clarence. A sign was on the door saying private function flashing disco lights to the rear of the pub however music not excessive from the front of the premises. A number of people were outside of the premises to the side of the premises. The rear side door to kitchen was open, music audible.

On 25<sup>th</sup> April Will Tomkins EHO spoke to Mr Beveridge. Mr Beveridge stated that there was a private party on and as the evening progressed they moved smokers to the side door of the premises. He also stated that customers were leaning across the bar to turn up the music. I advised him to cover the volume control and to use the side entrance. Also asked him to limit customers taking drinks outside the premises.

On the 3<sup>rd</sup> June 2017 a call was received by the EH Out of Hours Service at 23:34 regarding loud music. Unfortunately officers could not attend until 00:28 at which time the music had stopped.

On the 12<sup>th</sup> June a further complaint was received regarding noise via Devon and Cornwall Police. EHO Will Tomkins spoke to the complainant who stated – On Saturday night music continued until after midnight. There was also loud music until 01:30 Friday morning which started on Thursday 1st June. The locals are intimidating when the complainant asks the business to turn the music down. A customer has stated that the business is closing in 2 weeks time and "Barney" has not been seen at the premises for the last 2 months. Asked the complainant to call the OOH number earlier in the evening as in previous weeks they called after 10pm and the music has stopped at 11pm preventing officers from witnessing it. Informed him I would contact the premises licence holder.

On the 13<sup>th</sup> June Will Tomkins call the premises licence holder Mr Beveridge. Explained complaints and that noise levels had been reported to be on the increase. Mr Beveridge stated he would tell his manager. Also stated that the business would be closing in a couple of weeks.

On the 1<sup>st</sup> July 2017 a call was received by the EH Out of Hours Service. See Officer Statements of Graham Hooper and Katherine O'Connor. The manager of the pub Barny Wills who the Licence holder had nominated as a contact in the event of noise was obstructive to the officers and stated "that I was to come down to him and tell him to do this in person and he would while I explained it to the patrons present at the time." See statement of GHO

In conclusion the level of music from the premises has been found to be having an impact on nearby residential properties resulting in the service of a noise abatement notice. The evidence demonstrates that the licensed premises is having an impact on the licensing objective for the prevention of public nuisance. Despite correspondence with the licence holder this has

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continued. In addition the attitude of the pub manager has been found to be obstructive when contacted by officers from Environmental Health Staff working on Out of Hours. (Statement of KO'C and GHO)

### **Recommendations**

**I therefore recommend the following:**

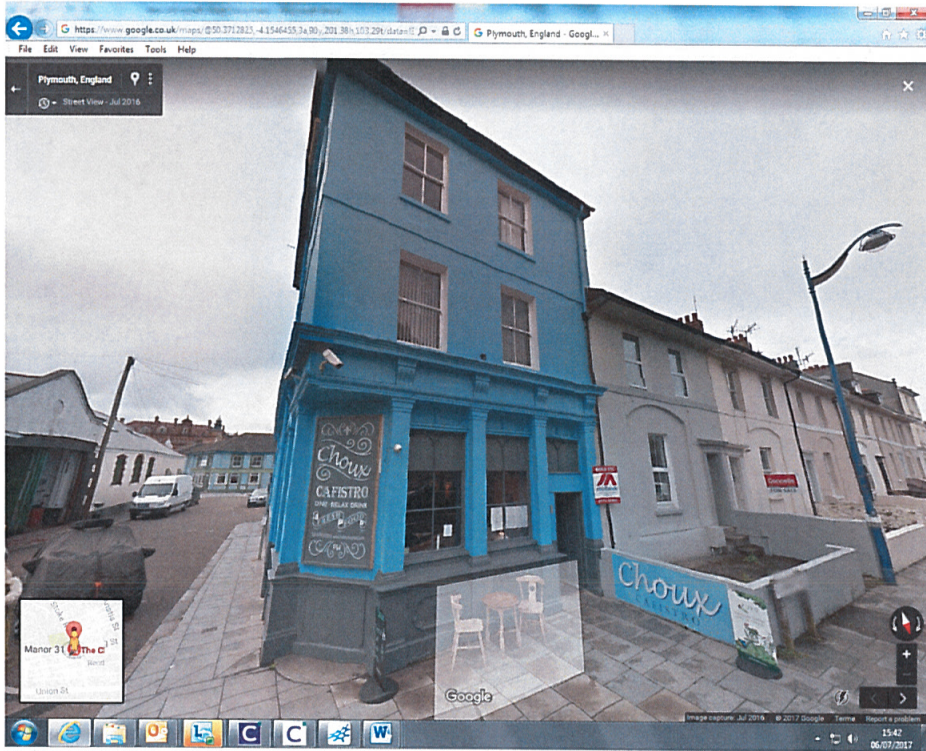
*(Explain why the conditions are necessary and how they address the concerns outlined above)*

Do to the close proximity of residential properties to the public house and the evidence above that demonstrates that the licence holder is unable or unwilling to control the noise levels I would recommend the following –

In accordance with **Section 177A(4) of the Licensing Act 2003** the removal of regulated entertainment from the premises licence.

Appendix A



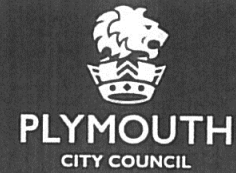






# STATEMENT OF WITNESS

Public Protection Service



RESTRICTED (when complete)

(Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s. 5B)

STATEMENT OF: KATHARINE JANE O'CONNOR

Age of Witness: Over 18

(True age to be shown where witness is a juvenile or person involved in serious crime enquiry, otherwise "over 18" will suffice)

This statement, consisting of 2 pages each signed by me, is true to the best of my knowledge and belief, and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 11<sup>th</sup> day of July 2017

Signature: Katharine O'Connor

I, Katharine Jane O'CONNOR, work as a Service Manager for Plymouth City Council in the Public Protection Service, which is part of the Office of the Director of Public Health. I qualified as an Environmental Health Officer in 1994. I take part in Plymouth City Council's Public Protection Service responsive Out of Hours service. The Out of Hours service exists to assist customers who are experiencing noise disturbance from neighbours or from neighbouring licensed premises. On Saturday the 1<sup>st</sup> of July 2017, I was working with my colleague Graham HOOPER. At approximately 20:55 Graham took a call from \_\_\_\_\_ of Clarence Place, Stonehouse. \_\_\_\_\_ lives to The Clarence public house and has been complaining about noise emanating from the pub, both from music and from disturbance in the street at the front of his house. At approximately 21:32, HOOPER and I arrived in the vicinity of The Clarence pub. On approach, we drove past the front of the pub and I noted several people drinking outside of the front door. We parked in Adelaide Street Ope and proceeded on foot towards the rear of \_\_\_\_\_ property. Music from The Clarence was clearly audible in the back lane, along with loud speech and jeering. I noted the track 'I'm Outta Love' by Anastacia was clearly audible outside I \_\_\_\_\_ back gate. Once inside the house, I \_\_\_\_\_ told us that Barney (WILLS), the manager of The Clarence was outside, drinking with the patrons. \_\_\_\_\_ showed HOOPER footage of the noisy patrons on his phone. The TV was on in the lounge and the music and speech was not clearly audible above the volume of the TV. \_\_\_\_\_ told us that they weren't able to go into the pub any more, to ask for the volume to be reduced, because they were subjected to verbal abuse

Signature: Katharine O'Connor

Statement of Witness

Continuation Statement of:

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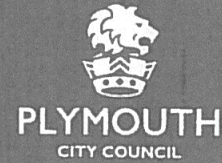
from the clientele. I noted that there was a single chair outside the front of the pub. The last time I visited there was a table and a couple of chairs. \_\_\_\_\_ said that these came and went. HOOPER and I went to \_\_\_\_\_ son's bedroom to assess the noise. The bedroom is in the tenement on the third floor of the house, and overlooks the rear tenement of the pub. With the window open, speech and music, particularly bass beat was clearly audible in this room. With the window closed, the volume was reduced, but I could still hear bass beat. In my opinion, sleep would be disturbed in this room with the music at this level. Because of the volume of the noise, HOOPER phoned Barney WILLS on the contact number we held on the file. HOOPER said that WILLS told him that there was a party going on but he would stop people from drinking at the front of the pub. HOOPER said that WILLS became quite aggressive when he was asked to turn the volume down. HOOPER said that WILLS asked him to come in and tell the patrons himself. We left the area at approximately 22:03. I noted one chair at the front of the pub. There was a large framed man in the doorway and no drinkers outside. The volume of the music had reduced. At approximately 23:05 \_\_\_\_\_ called us again. He told me that the music was pounding through the front room wall now. \_\_\_\_\_ said that our request to turn down the music had been ignored and that it had just come back on. \_\_\_\_\_ agreed that he would carry on recording evidence on his phone but that we didn't need to visit again. We logged the phone call.

END *W.D. Lane*

Signature: *W.D. Lane*

# STATEMENT OF WITNESS

Public Protection Service



(Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s. 5B)

**STATEMENT OF: Graham David Hooper**

**Age of Witness: Over 18**

(True age to be shown where witness is a juvenile or person involved in serious crime enquiry, otherwise "over 18" will suffice)

This statement, consisting of 4 pages each signed by me, is true to the best of my knowledge and belief, and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

**Dated the 4th day of July 20 17**

Signature: 

I, Graham David Hooper am employed as a Senior Officer within the Intelligence and Licensing Team that forms part of Plymouth City Councils Office of the Directorate of Public Health. I have a MSc in Environmental Health and I am an EHORB registered Environmental Health Officer. I am an authorised officer under the Licensing Act 2003 and the Environmental Protection Act 1990. I am a lead officer on Plymouth City Council's Out of Hours (OOHs) noise service. My position as Senior Officer includes the overseeing of all licensing matters and the investigation of statutory nuisance complaints. On Saturday the 1<sup>st</sup> of July 2017, I was working on the Departments Out of Hours noise call out service with my colleague Katharine O'Connor. At 20:55 hours, I received a call from [redacted] who lives at Clarence Place, Stonehouse who stated that although there was no music at that time there was a large congregation of patrons from the Clarence Hotel at the front of the premises drinking, shouting and swearing. We agreed to visit to assess and arrived in the area at 21:27 hours. Before we parked, we drove past the front of the premises and observed a number of people outside on

Signature: 

**Statement of Witness**

**Continuation Statement of:** Graham HOOPER

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the pavement with drinks in their hands. At 21: 30 hours, we approached the complainant's property from the rear lane and phoned them to gain access to the property. While we were waiting to gain access, I could hear loud music and 'people' noise emanating from the pub premises. We entered the complainant's property at 21:33 hours and were taken up to the front room. From here I could hear low-level music and people noise which although was not overpowering was distinguishable above the television volume which was on at a reasonable level. The noise appeared to raise and lower continually. I showed me the video he had taken from his CCTV system that was trained on the front of his property. This showed a number of patrons outside the front of the pub premises with drinks glasses in their hands and all appeared to be in 'high spirits'. I was shown one particular male who on the video clip who I was informed was Barney Wills the manager and who was mixing with the others outside. At 21:43 hours, we relocated to son's bedroom that is located in the rear tenement and adjoins the pub premises. From this location and with the window open I could hear dance type music and people noise. With the window closed, the noise was considerably reduced but was still audible, I would not be able to sleep with the windows open or closed with the volume of music and speech from the pub premises at that time. We then returned to the front room. At this point, I considered visiting the pub premises to discuss the matter with the manager however, due to the nature of the noise we were hearing and the fact that it was probable that many would be in drink I decided not to enter the premises and instead phone the manager as the agreed procedure. At 21:53 hours, I phoned Barney Wills on his contact number. I explained who I was and that we had been called out regarding the noise from the amount of patrons drinking outside the front of the premises. I stated that we had made observations and that things were becoming very 'lively' and requested that Mr Wills reduced the volume of the music and controlled the amount of

Signature: 

**Statement of Witness**

**Continuation Statement of:** Graham HOOPER

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patrons drinking outside the front of the premises and the noise they were generating. Mr Wills agreed to do this however; he stated that there was no music at that current moment. I informed him that I could hear the music and that the volume needed to be reduced. I asked if Mr Wills if the premises was soon to be closing and /or if he was leaving the premises. At this point Mr Wills became very argumentative and was clearly annoyed that I was asking him to control the noise levels in his establishment. It was difficult to hear what Mr Wills was specifically saying due to the noise at his end in the premises and also due to the fact that the mobile phone conversation kept cutting out. This resulted in me missing much of Mr Wills's early comments however; I did hear Mr Wills state that the pub would never work because of the people making the complaints. He stated that he was fed up with us contacting him and that he was going to move above Jesters and make complaints about the noise the club made. I stated that I was not going to argue with him but was merely asking him to reduce the level of the noise and to prevent patrons from drinking outside the front of the premises, causing an issue. Mr Will's then stated it was a 45th birthday party and that I was to come down to him and tell him to do this in person and he would while I explained it to the patrons present at the time. I again repeated I simply wanted him to control the noise and again he repeated about living above Jesters and he was fed up with our harassment. I repeated to Mr Wills I was not going to argue with him about the matter and we would be continuing to monitor the situation that night. I then ended the call. After providing further advice to the complainants, we left the complainants premises at 22:00 hours. I noted as we left the rear of the premises that the music and people noise levels had been reduced. As we drove past the front of the Clarence Hotel, I could see there was only one person out the front of the premises and from the pictures I saw on ..... CCTV clips I believe Barney Wills was standing in the premises doorway. At 23:08 hours we received a 2<sup>nd</sup> call from ..... who stated that the

Signature: Ed Hooper

**Statement of Witness**

**Continuation Statement of:** Graham HOOPER

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music noise levels had increased and become a nuisance again and that there were numerous patrons outside the front of the premises. In agreement with \_\_\_\_\_ and after further advice to log the details we agreed not to visit again but to inform Mr Tomkins the case officer on Monday morning. This concludes my statement.

Signature:  \_\_\_\_\_

Ref: The Clarence Pub  
Date: 7 July 2017

Dear Sirs,

We would like to make a submission to you with regards to the review of the license in relation to the above premises. We live [redacted] to the Clarence Pub in [redacted] Clarence Place. When we bought our home the adjoining premises was a thriving restaurant. During the time that the restaurant was in business we had no disturbances from noise or anti social behaviour .

When the restaurant closed and the premises were converted back to a public house the situation deteriorated rapidly from the day the pub opened for business. We have on numerous occasions over the last 7 months, (the pub started trading officially at the beginning of January 2017), found it necessary to raise issues with both the police and the Plymouth City Council Environmental Noise Complaints Office. The incidents have ranged from fights and vandalism to the pub, noise, patrons throwing rubbish, cigarette butts and vomiting in our garden. Plus when we requested the volume of the music to be turned down both myself and my partner [redacted] have been verbally abused by patrons of the pub who have also attempted to intimidate us in front of the barstaff and no action was taken by the employees of the Clarence Pub.

During this period both myself and my partner have gone into the pub and politely asked the various members of staff working behind the bar to turn the music down. To start with they were polite but as time has gone on their attitude has become more and more irritated with us asking. Following verbal abuse from patrons, that the barstaff did not intercede to stop, we feel that it is no longer safe for us to personally enter the pub and ask for the nuisance (whatever it is) to be dealt with. We have been advised by environmental health not to go into the pub and to call them if we have a problem. The environmental health staff that have been on late duties on Friday and Saturday nights feel that the situation is of such a volatile nature that they no longer enter the pub and ask for nuisance to be dealt with.

On the night of the major incident we called environmental health and they attended our property at approximately 2000 hrs. They noted that the large crowd outside were drinking contrary to the public order notice banning the consumption of alcohol in the street. They telephoned the landlord to asked him to deal with drinking in the street (including himself), loud music and anti-social behaviour as they felt it would not be safe for them to enter the premises. The landlord was not cooperative and we were told if there were any breaches of the peace to call the police. When the environmental health officer spoke to the landlord, the landlord stated that the pub was going to be closing permanently in the near future. We were also told this by one of the patrons who verbally abused [redacted] when she went round to requested loud music to be turned down.

The noise levels over the period the Clarence Pub has been open have meant that we are unable to open windows in our property during the evenings or at night. This has made sleeping conditions in the hot weather very uncomfortable for everyone in the house. Our younger children's bedrooms are in the tenement at the rear of the property the noise level from the pub means that the children are frequently unable to get to sleep or woken up in the early hours of the morning. This has had an adverse affect on their sleep patterns and education.



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All of the issues we have raised above have been witnessed and documented at various times by the environmental health officers who have attended our property.

I would ask you to consider in view of the diary evidence accompanying this letter to withdraw the licence for the Clarence Pub to sell alcohol.

Yours sincerely

Attachments excerpts from diaries we have kept from January 2017 to present day.

**Friday 27 January 2017**

Live band in the Clarence. had to go round and ask for the music to be turned down at 21:10 as it was getting louder and louder. Could not hear TV. Landlord not in pub. Two women behind bar agreed to request but still at a very loud level not reduced by much. (Base & music).

People outside pub all day smoking and talking loudly.

People outside behaving anti socially until between midnight and 1am.

**Saturday 28 January 2017**

People outside pub till 1am talking loudly, arguing and behaving in an inappropriate manner for a residential area.

**Sunday 29 January 2017**

3 men stood outside the pub obviously drunk shouting and smoking throwing cigarette butts on the pavement and in our front garden / went out a midnight and asked them to be quiet with little effect. 00:30 got up out of bed and asked a woman that had just come out of the pub shouting at the top of her voice (very drunk) and asked her to be quiet. He was ignored.

**Monday 30 January 2017**

went into pub at 19:00 and asked to speak to the landlord, to discuss the behaviour of his patrons the previous night. Told by barstaff that he would not be back until Tuesday. Explained to the barmaid the problems over the weekend. She said she would speak to the landlord and perhaps the pub may shut a little earlier. She would also talk to her customers who were in the pub again to be quiet.

**Thursday 2 February 2017**

21:00 Loud music with a heavy beat sounds like there is a live band in the pub again.

Friday 3 February 2017

Loud music since 22:00. Tried to telephone the pub to ask them to turn it down. Original telephone number unobtainable, only a mobile number listed and this was not answered.

Went round to the pub at 22:30 and asked them to turn the music down. Base and treble remained clearly audible in our house. Customers were playing around with the DJ equipment playing karaoke. Barmaid said that this was the last song and that it would be turned off. Landlord not in the pub.

Loud people outside the pub.

### **Monday 6 February 2017**

Loud dance music from 20:00 onwards couldn't hear the TV because the base was so loud. Went round at 22:00 and asked the barmaid to turn the music down. It could still clearly be heard in our living room. Only normal customers in the pub – not a party or special event going on.

### **Tuesday 21 February 2017**

From 17:30 onwards people outside the pub. Talking and shouting loudly including the barstaff. One of the people outside the pub was very drunk had a go at me when he left for work (approx 22:00 hrs). Pointing and gesticulating at him I couldn't rally understand what he was saying because he was so drunk.

### **Wednesday 22 February 2017**

Working nights – Loud music from the Juke Box woke me up at 11:00. Lasted for a couple of records and was turned off.

Music loud again at 13:00.

Loud piped music again at 18:15. Base could be heard over the 18:00 BBC News on the TV.

18:50 Went round to the pub and asked Barney (the landlord) to the music to be turned down. He had to try to make himself heard over the music as it was so loud in the pub. Sound level started gradually creeping up again at 19:00.

### **Friday 24 February 2017**

17:00 Elvis Jailhouse Rock being played loudly.

21:20 Loud music could hear a live act singing Private Dancer by Tina Turner above the sound of the TV. Female continued to sing Robert Plant – Addicted to Love. Ain't Nobody – Chaka Chan. Heavy base. Hold Back the River – James May heavy base again. The music was even louder in the tenement where the children sleep. Cheering and clapping in the pub clearly audible. Tina Turner – What's Love. Sweet Child of Mine – Guns and Roses.

22:30 Lots of shouting outside.

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22:40 went round and asked for the music to be turned down and was told that the singer would only be on for another 15 minutes. No effort made to quieten things down. Further songs audible Don't Stop Believing – Journey. Music getting much louder. Run Around Sue and Proud Mary music so loud it is making the dog bark. Singing Sex on Fire and All Night Long at 23:00. Echoing base making the cupboard door in the living room rattle .

23:34 Lots of drunken shouting outside making the dog bark.

### **Wednesday 1 March 2017**

Loud music started playing at 22:10

### **Saturday 4 March 2017**

Music started at 18:00 can hear the base through the wall. Lots of shouting and cheering from inside the pub. Sounds like a fairly large group of men. Music getting louder 19:00. Heavy beat watching Comic Relief Lets Dance on TV and can't hear the music. Music from the pub playing Baby Don't Hurt Me – What is Love. 19:45 music stopped.

21:13 music started again, heavy beat louder than the Voice on TV.

### **Saturday 11 March 2017**

Loud music at 17:00 when we came home. went round at about 17:30 and asked the barmaid to turn the music down. Verbal abuse from the smokers outside the pub as she went in. "Oh here we go again. Shouldn't buy a house next to a pub if you don't like the "F" noise". Music turned down but could still be heard in the living room even when the TV was on.

### **Friday 17 March 2017**

Called the council's noise team. went round and asked Barney (the landlord) to turn the music down at approximately 21:30 as there was a singer in and we could hear every word that was sung. Beat pounding through the wall.

When the noise team arrived at about 22:30 the singer had finished. The piped music was really loud and we could hear Elvis songs i.e. Return to Sender above the TV. There were also people in groups of 6 to 8 outside the pub making loud noise while smoking.

### **Saturday 18 March 2017**

Front garden full of cigarette butts. Photo's taken.

20:30 music started in the pub and could be heard above the TV. We were watching the voice. Beat really loud and thundering again.

22:10 music louder . Lots of people making noise out the front of the house. Louder than the T.V.

22:46 music turned up playing Another One Bites the Dust – Queen, but just beat music no singing. Private Birthday party going on. went round and asked the barmaid to turn it down. She apologised, said she didn't realise the time and turned the music down.

Landlord not in pub.

23:28 music got louder again.

### **Sunday 19 March 2017**

16:20 music put on. Can hear the base above the sound of the TV.

### **Saturday 25 March 2017**

22:00 loud music in the pub. The base is loud and can be heard over BBC1 Ten O'clock News. Gradually getting louder.

### **Sunday 26 March 2017**

18:55 Loud music in pub could hear the sound above the TV. went round and the barmaid immediately turned the music down before even said anything. But as soon as got back in the house the sound went up again. Heavy beat.

A gentleman knocked on the door and said he was one of the owners of the Clarence and he wanted to come in and listen to the music in our house. The music was turned down as he came in and couldn't be heard when he was in the house. Although he was polite and seemed friendly the whole situation was quite intimidating as he gave the impression he would not accept being refused admittance to our property. As soon as he left the volume of the music went back up.

19:13 Landlord came back in and said that he couldn't hear the music.

20:45 Music louder beat can be heard above the TV even though the sound on the TV has been turned up.

23:00 Argument outside pub started. Pub landlord came outside and moved the participants down the street outside number 29 so that the argument could not be filmed on our cameras. Argument loud enough to make the dog bark continuously.

### **Friday 21 April 2017**

20:00 Called the police because there were about 15 to 20 people outside the pub drinking and being very loud. Not the first people to call the police as they had already been called 20 minutes ago. Sounded like a crowd at a football match.

Loud music – house type music in the pub called the council's out of hours team at approximately 22:10

A crowd of about 20 people in the alley by the garage singing an Oasis song Sally can wait walk on by.

22:38 music started up again . Loud enough to be heard over the TV. Singing started up again outside. Music louder by 22:42. Music louder again at 22:52 can hear the words and whole pub singing along but can't put a name to the tune. Music turned down slightly at 23:10. Music then came back on loudly and there were people outside the front of the pub shouting.

### **Monday 24 April 2017**

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Loud music started at 21:30. house type music with no words just a heavy beat.

22:00 went round and asked for the music to be turned down. One of the customers turned the volume down. Barmaid didn't say anything to but glowered and turned her back.

22:11 the music turned up really loud. And then went down a bit in volume but was still as loud as when had originally asked for it to be turned down.

22:15 Two drunks outside having a loud argument.

22:18 music stopped.

22:22 Music back on can be heard over the TV.

### **Wednesday 26 April 2017**

Music could be heard in the house. Had to turn the TV up to mask the noise.

### **Thursday 27 April 2017**

20:30 Music in pub started could be heard getting louder and louder. Until by 21:30 it could be heard getting louder and louder. You could hear the words of the songs. Much louder than last night.

### **Sunday 30 April 2017**

21:30 Loud music coming from the pub. Heavy beat can't tell the words. Louder than the film on TV still carrying on at 22:00.

### **Monday 1 May 2017**

21:30 Music started in the pub. Loud customers outside making a racket shouting at each other.

22:30 went round and asked them to turn the music down. Volume has gone down a bit but can still be heard over the TV. Music turned up at 23:00 as loud if not louder than when we asked for it to be turned down in the first place. Customers outside shouting and laughing very loudly.

One of the customers flashing his privates at someone walking down the street. We telephoned the police and reported the indecent exposure.

### **Tuesday 2 May 2017**

19:00 Music started up in the pub. Can't hear the words just heavy beat but it is louder than the recording of Bargain Hunt being played on the TV. Turned the volume of the VTV up but can still hear the music.

### **Saturday 6 May 2017**

22:30 Loud music started in the pub. Gradually got louder and louder until a thundering beat could be heard over the top of the film we were watching (Lethal Weapon).

23:19 the music is even louder. Can't hear the TV because it is so loud. Sounds like Karoke singing – My Way Frank Sinatra. Loud music till 00:35. Could hear it in our bedroom and it kept Paul awake.

### **Monday 8 May 2017**

20:30 Music started in pub gradually got louder and louder at 20:40 it was drowning out the sound of the TV. Thumping beat can't hear the words to the song but a constant heavy beat. Could also hear lots of furniture being moved around in the pub.

22:10 the music stopped and there were customers outside talking loudly.

22:17 music started again and can be heard over TV, watching a recording of Put Your Money Where Your Mouth is.

### **Friday 12 May 2017**

21:00 loud music from the pub that can be heard over the TV. Loud customers shouting and laughing outside. Music loud in the childrens bedrooms.

21:20 Music getting louder starting to drown out the sound on the TV. Can't really hear the words just a generic bang bang bang.

21:22 went round and asked the pub to turn the music down. Slight difference in the volume but could still be heard when the TV was turned off.

22:50 shouting and noise from the customers outside. Music loud again can be heard over the top of the Graham Norton Show.

### **Monday 15 May 2017**

20:00 Loud music no words just thump thump thump of base. Bargain Hunt on TV – music can heard above the TV.

### **Thursday 18 May 2017**

18:50 loud music – louder than Spotlight on TV. Large group of well dressed people went into the pub at 20:35 Loud music carried on could hear the words to Sitting on the Dock of the Bay and Miss You When You Are Gone from Notting Hill.

20:42 went round and asked for the volume to be turned down. Music was turned down slightly but could still hear the words.

### **Saturday 20 May 2017**

17:48 Music been going since about 16:00 gradually getting louder and louder. went round to ask if the music could be turned down. The barman turned the music down as went in the door, the customers all stared at him.

### **Tuesday 30 May 2017**

20:45 Barney (the landlord) in the pub serving. Pub door is open and loud music can be heard in our house and outside. Music coming through louder than TV. went round and asked for it to be turned down. Volume went down at the time but went back up again as soon as Paul left the pub. Paul was scowled at.

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### Thursday 1 June 2017

21:30 Loud music in the pub.        went round and asked or it to be turned down. Music got louder and louder.

22:15        went round and asked them to turn the music down and got verbal abuse from one of the customers who tried to start an argument.

01:30 Loud music still going on lots of shouting outside.        called the police and went out and videoed what was happening.

### Saturday 10 June 2017

20:00 Loud music started.        tried to phone the council but there was no answer from their out of hours line.

21:00        / went round and asked for the music to be turned down.        / received verbal abuse from one of the regular customers. "Black Cap". Who said really are you going to "F"complain when you have won. You have "F"won and they are leaving in two weeks. The was said in an aggressive manner and appeared to be intended to provoke an argument. Music was turned down by barman but he did nothing to stop the behaviour of the customer.

      I phoned the police and I        reported the verbal abuse and threatening behaviour. Police advised not to go round again or interact with the people in the pub in any way.

23:00 music started getting louder again. Still unable to get hold of the council.

### Saturday 1 July 2017

20:00 called the councils out of hours officers. Large crowd of people (approximately 20 in number) outside drinking with normal glasses and plastic shot glasses. Loud music and lots of loud shouting and yelling. Council officers checked the noise in the living room and the childrens bedrooms. Telephoned the pub landlord and asked him to deal with the people drinking outside and to turn the music down. He was uncooperative. We were advised that the council would be in the area and should there be any more noise problems to give them a call. However, if there was a breach of the peace to call the police. The council officers did not think that it was safe for them to go into the pub in person and advised        and        not to either.