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09 JUL 2015

London Borough of Hammersmith & Fulham, Council Offices, 37 Pembroke Road,  
London, W8 6PW

Application for the review of a premises licence or club premises certificate under the  
Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.  
If you are completing this form by hand please write legibly in block capitals. In all cases ensure  
that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.  
You may wish to keep a copy of the completed form for your records.

I **Julian Trill**

(Insert name of applicant)

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the  
premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
The Rose 1 Harwood Terrace	
Post town: London	Post code (if known) SW6 2AF

Name of premises licence holder or club holding club premises certificate (if known)
Moonshine Bars (city) Limited

Number of premises licence or club premises certificate (if known)
2012/00593/LAPR

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible  
authority (please read guidance note 1, and complete (A)  
or (B) below)

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates  
(please complete (A) below)

**(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)**

Please tick ✓ yes

Mr  Mrs  Miss  Ms  Other title  
(for example, Rev)

<b>Surname</b>	<b>First names</b>
<input type="text"/>	<input type="text"/>

I am 18 years old or over  Please tick ✓ yes

<b>Current postal address if different from premises address</b>	<input type="text"/>
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<b>Post town</b>	<input type="text"/>	<b>Post Code</b>	<input type="text"/>
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<b>Daytime contact telephone number</b>	<input type="text"/>
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<b>E-mail address (optional)</b>	<input type="text"/>
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**(B) DETAILS OF OTHER APPLICANT**

<b>Name and address</b>
<b>Telephone number (if any)</b>
<b>E-mail address (optional)</b>

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address <b>Mr Julian Trill</b> <b>Bi-borough Area Senior Officer</b> <b>Bi-borough Noise &amp; Nuisance Team, Environmental Health Services Group</b> <b>Council Offices</b> <b>37 Pembroke Road</b> <b>London</b> <b>W8 6PW</b>
Telephone number (if any) <b>020 7341 5640</b>
E-mail address (optional) <b>julian.trill@rbkc.gov.uk</b>

**This application to review relates to the following licensing objective(s)**

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>

**Please state the ground(s) for review (please read guidance note 2)**

The London Borough of Hammersmith and Fulham's Environmental Health Noise and Nuisance Team is designated as a Responsible Authority under the Prevention of Public Nuisance Key Licensing Objective of the Licensing Act 2003.

The Rose, 1 Harwood Terrace, London, SW6 2AF, consists of a Public House on the ground floor with a beer garden to the rear, with a kitchen and function room on the first floor. The premises licence permits the sale and supply of alcohol to customers on the premises between 11:00 hours and midnight Monday to Saturday (10:00 hours and midnight, June and July), and 12:00 to 23:30 hours on Sunday, with a further 30 minute period for customers to be on the premises.

The premises are located to the south of the King's Road, at the corner of Harwood Terrace and entrance to the North Thames Gasworks. The area is a mixed commercial/industrial and residential area. The premises adjoin residential properties on two sides: it shares a party wall (including the garden) with 3 Harwood Terrace, and the beer garden also shares a boundary with the rear of several properties in Imperial Square. The beer garden is therefore overlooked by a number of residential properties. There are no conditions regulating the hours of use of the beer garden.

The Noise & Nuisance Team have received a number of complaints regarding disturbance from the premises, in the evening and following Chelsea FC home fixtures. This disturbance arises from the noise generated in the rear beer garden of the premises, by smokers and patrons drinking up until 22:30 hours. The first complaint was received on the evening of 8 April 2014, regarding noise from the beer garden. Further complaints were received in April 2014, with an officer visiting a resident's property on 26 April 2014 at 21:46 hrs and witnessing loud and disturbing noise generated by the voices of patrons in the rear garden.

The officer visited the pub and spoke with the Duty Manager regarding the complaint; they agreed to bring all the patrons in from the garden. Over the course of the next 3 months, thirteen further complaints were received regarding excessive noise generated by patrons in the beer garden. On five occasions, officers were able to witness the disturbance and confirmed that, even with windows of the complainant's property closed, it was such that an unreasonable disturbance was being caused. On each occasion, officers visited the pub and spoke with the duty manager to explain the problem and to ask that they control the noise levels and consider closing the garden at an earlier time.

On 8 August 2014, I wrote to Mr Tom Gill, the Director Moonshine Bars (city) Limited, the Premises Licence holder for the pub, listing the dates of the complaints and outlining the possible enforcement action that could be taken if the matter was not addressed.

In response to this letter a meeting was held at the pub on 21 August 2014 with Mr Tom Gill and Mr Robbie Gill (the Managing Director of Moonshine Bars (city) Limited). During the meeting, the nature of the complaints was detailed and a number of measures were discussed to see if they could be implemented in order to reduce the impact on neighbours. A number of these measures were to be implemented: installation of table signage (making patrons aware of the need to control noise), CCTV and air conditioning. A number of other measures were agreed to be considered (additional screening and enclosing of the garden). A Noise Management Plan was also introduced that put in place a voluntary restriction on the use of the garden so that it closed (and was clear of patrons) by 10pm (Sunday to Wednesday) and 10:30pm (Thursday to Saturday), and to detail the monitoring and supervision measures for the garden that would be implemented. I suggested to them that they consider submitting a minor variation in order to condition these measures on the Premises Licence. They agreed to consider this. I advised meeting that should further noise nuisance be witnessed, I would consider the service of a Noise Abatement Notice or a Review of the Premises Licence.

Following this meeting, further noise nuisances were witnessed on 30 August and 13 September. Residents advised that they had not noticed any significant improvement in the control of noise from the beer garden. On 4 November 2014, a Noise Abatement Notice was served on Moonshine Bars (city) Limited. The Notice required, within 42-days, for there to be no further recurrence of noise nuisance from the voices of patrons within the rear garden of the premises. In the letter accompanying the letter I set out a number of measures that they could consider in order to resolve the matter:

1. Reducing the capacity of the rear garden by removing the number of tables/chairs/umbrellas/heaters available.
2. The rear garden to be closed to patrons and staff by 21:00hrs each day.
3. Prohibiting any vertical drinking in the rear garden, and strictly enforcing a seated consumption of alcohol only policy.
4. Banning all singing, shouting, chanting and/or similar behaviour at ANY time in the rear garden, and consider closing the rear garden after the end of any Chelsea FC home games, or for a limited period (e.g. 2 hours) after the end of any Chelsea FC home games.
5. A member of staff to permanently patrol the rear garden and to strictly enforce conditions 3 and 4.
6. No clearing of glasses or cleaning of the rear garden once it has closed – all cleaning/clearing to take place the following morning.

7. The door to the rear garden to be closed and locked once it has been cleared of all patrons at 21:00hrs.

The Notice was appealed by the Premises Licence holders. A meeting was held at the premises with Mr Tom Gill and Mr Robbie Gill, and their licensing and legal advisors. They set out the measures they had implemented to date and the further proposals they would adopt. They advised that for financial reasons (due to the impact on food sales), they could not close the garden at 21:00 hours. I again suggested that they consider submitting a minor variation in order to add conditions to the Premises Licence regarding the management and hours of use of the garden, but it was made clear that this would not be considered.

The Notice was withdrawn by way of a Consent Order issued by Hammersmith Magistrates Court on 27 January 2015, following the implementation of noise control measures: CCTV; air conditioning; noise notices on each table; self-closers on the pub's rear doors; a Garden Protocol; and staff training on noise issues.

Despite these measures, further complaints have been received. On 24 March 2015 I met with residents from three properties in Harwood Terrace. They described the continuing disturbance that had occurred over the winter period, and the effect that this was having on the use of their properties and their concerns that the nuisance would continue and increase across the summer, particularly during warmer weather. They accepted that, living close to a pub with a beer garden, some degree of disturbance and inconvenience was inevitable, but that this has increased substantially since the change in ownership of the premises in the last 2 years and that some restriction on the use of the garden was necessary. I advised the residents to use the Team's call-out service in order to get any further incidents witnessed so that further action could be considered.

On 17 April 2015, following receipt of two complaints on 10 and 15 April, I emailed Mr Tom Gill to report these incidents and to ask whether the Garden Protocol was being implemented. On 22 April 2015, Mr Gill replied and confirmed that the Garden Protocol was being enforced and that managers and staff had received seasonal training on the protocols.

Further noise nuisance has been witnessed on six occasions in April, May and June due to the excessive noise generated by patrons in the garden.

**In light of the above I am satisfied that there is significant potential for ongoing public nuisance from the use of the garden at this premises and I am submitting a Premises Licence review, as a Responsible Authority under the Public Nuisance Key Licensing Objective of the Licensing Act 2003. The purpose of this review is to address the disturbance that arises from its use due to the absence of any formal conditions governing the hours of use of the garden and the apparent lack of adequate external management.**

**I consider the following conditions are required to be imposed, in order to promote the prevention of public nuisance key licensing objective:**

1. **There shall be no customers in the rear garden between 21:00 hours and 11:00 hours the following day.**
2. **The external doors opening on to the garden of the Premises shall be fitted with a self-closing device and shall be kept closed except for immediate access and egress. The door shall be locked closed between 21:00 hours and 09:00 hours the following day.**
3. **There shall be no clearing of glasses or any cleaning or maintenance within the**

**garden of the Premises between 21:00 hours and 09:00 hours the following day.**

- 4. Clearly legible notices shall be displayed on each table in the garden, requesting patrons to respect the needs of local residents by not making excessive noise.**
- 5. Clearly legible notices shall be displayed at all exits from the Premises requesting patrons to respect the needs of local residents and to leave the Premises and area quietly.**
- 6. The Premises shall adopt and implement a Garden Noise Management Protocol. The Protocol is to be agreed in writing with the Council within 28-days of this hearing, detailing the measures, monitoring and staff training that will be carried out in order to minimise the noise generated by patrons within the garden.**
- 7. A dedicated telephone number for the Designated Premises Supervisor or the duty manager shall be maintained for use by any person who may wish to make a complaint during the operation of the licence, which shall be provided to the Licensing Authority and local residents' associations. Any change to the number shall be notified to the Licensing Authority and to local residents' associations within 7 days of the change.**
- 8. A record shall be kept of all complaints which shall be available for inspection by the Licensing Authority and the Police at all times when the Premises are open.**

**Please provide as much information as possible to support the application (please read guidance note 3)**

Since 8 April 2014, a total of 34 complaints have been received from residents regarding excessive noise and disturbance generated by patrons using the beer garden. Officers have witnessed levels of noise that constitutes a nuisance in residents' properties on 17 occasions.

<b>Date of complaint</b>	<b>Time of complaint</b>	<b>Time of officer visit</b>	<b>Complaint details</b>
8 April 2014	22:17	23:01	<i>Noisy pub</i>
17 April 2014	22:17	23:40	<i>Voices from pub beer garden</i>
26 April 2014	20:58	21:46	<i>Noise from patrons in pub garden. could hear raised</i> Nuisance witnessed by officers.
1 May 2014	21:38	22:08	<i>Loud talking/shouting from beer garden</i> Nuisance witnessed by officers.
17 May 2014	21:29	22:30	<i>People talking and screaming</i>
3 July 2014	20:23	21:19	<i>Loud talking from the pub garden</i> Nuisance witnessed by officers.
4 July 2014	22:22	N/A	<i>Large gathering of noisy people</i>
18 July 2014	21:21	21:50	<i>Loud talking coming from the garden</i> Nuisance witnessed by officers.
19 July 2014	20:53	22:05	<i>Large number of rowdy people in pub beer garden</i> Nuisance witnessed by officers.
21 July 2014	21:42	22:16	<i>Loud Talking / Shouting</i>
26 July 2014	19:57	20:45	<i>Loud talking / shouting from beer garden</i> Nuisance witnessed by officers.
31 July 2014	20:19	21:46	<i>Loud talking and shouting in the beer garden</i> Nuisance witnessed by officers.
1 August 2014	21:39	23:10	<i>Noisy Pub</i>
4 August 2014	23:32	00:15	<i>Beer garden at the pub still in use</i>
6 August 2014	20:50	N/A	<i>Loud talking</i>
10 August 2014	00:14	N/A	<i>Loud talking in pub</i>
30 August 2014	19:18	20:41	<i>Loud beer garden</i> Nuisance witnessed by officers.
12 September 2014	18:30	20:29	<i>Loud shouting from the Rose Pub</i>
13 September 2014	17:57	20:00	<i>Loud noise from beer garden next door</i> Nuisance witnessed by officers.
27 September 2014	20:32	21:04	<i>Loud shouting from pub garden</i>
11 November 2014	20:28	21:40	<i>Loud talking</i>
14 November 2014	20:59	N/A	<i>Loud talking, laughing and shouting coming from The Rose public house</i>
22 November 2014	14:14	N/A	<i>Loud talking and drinking outside</i>
13 December 2014	17:12	19:09	<i>Loud singing and chanting</i> Nuisance witnessed by officers.
20 December 2014	19:41	N/A	<i>Loud music. singing in the garden</i>
22 January 2015	21:25	N/A	<i>Noisy pub</i>
17 April 2015	20:36	21:02	<i>Noisy pub</i> Nuisance witnessed by officers.
19 April 2015	20:37	21:15	<i>Noisy pub</i>
22 May 2015	20:51	21:15	<i>Loud talking and shouting</i> Nuisance witnessed by officers.
25 May 2015	15:48	16:50	<i>Loud shouting and chanting in the pub</i> Nuisance witnessed by officers.
4 June 2015	20:28	22:00	<i>Noisy pub</i> Nuisance witnessed by officers.

11 June 2015	19:52	20:45	<i>Noisy pub</i> Nuisance witnessed by officers.
12 June 2015	19:46	21:00	<i>Loud beer garden</i> Nuisance witnessed by officers.
26 June 2015	19:44	20:28	<i>Loud beer garden</i> Nuisance witnessed by officers.

Please tick  yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day    Month    Year

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**If you have made representations before relating to the premises please state what they were and when you made them**

N/A

**Please tick ✓ yes**

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures** (please read guidance note 4)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature



Date **9 July 2015**

Capacity **Area Senior Noise & Nuisance Office, Bi-borough Noise & Nuisance Team, Environmental Health Services Group**



**Licensing Act 2003 Premises Licence Schedule 12 Part A, Regulation 33, 34**

**Premises Licence Number: 2014/00201/LAPR**

**Part 1 – Premises details**

**The Rose  
1 Harwood Terrace**

**Post town: London**

**Post code: SW6 2AF**

**Telephone: 020 7731 1832**

**Where the licence is time limited the dates:**

**Not Applicable.**

**Licensable activities authorised by the licence:**

**Playing of Recorded Music -Indoors Only  
Provision of Late Night Refreshment -Indoors Only  
Sale of Alcohol On and Off the Premises**

**The licence authorises the carrying out of the following licensable activities on the days and at the times specified below:**

<b>Playing of Recorded Music -Indoors Only</b>	
<b>No Restriction - 24 hours</b>	<b>00:00 -00:00</b>
<b>Provision of Late Night Refreshment -Indoors Only</b>	
<b>Monday</b>	<b>23:00 -00:00</b>
<b>Tuesday</b>	<b>23:00 -00:00</b>
<b>Wednesday</b>	<b>23:00 -00:00</b>
<b>Thursday</b>	<b>23:00 -00:00</b>
<b>Friday</b>	<b>23:00 -00:00</b>

**Saturday** 23:00 -00:00

**Sunday** 23:00 -23:30

**Non Standard Timings and Seasonal Variations:**

New Year's Eve from 23:00 to 05:00 on New Year's day

**Sale of Alcohol On and Off the Premises**

**Monday** 10:00 -00:00

**Tuesday** 10:00 -00:00

**Wednesday** 10:00 -00:00

**Thursday** 10:00 -00:00

**Friday** 10:00 -00:00

**Saturday** 10:00 -00:00 ((June and July))

**Saturday** 11:00 -00:00 ((August to May))

**Sunday** 12:00 -23:30

**Non Standard Timings and Seasonal Variations:**

(a) Good Friday, 12 midday to 10.30pm

(b) Christmas Day, 12 midday to 3pm and 7pm to 10.30pm

(c) New Year's Eve, from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

**The opening hours of the premises:**

**Monday** 10:00 -00:30

**Tuesday** 10:00 -00:30

**Wednesday** 10:00 -00:30

**Thursday** 10:00 -00:30

**Friday** 10:00 -00:30

**Saturday** 10:00 -00:30

**Sunday** 12:00 -00:00

**Where the licence authorises supplies of alcohol whether these are on and / or off supplies:**

**Both On and Off the premises**

**Part 2**

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence:

**Moonshine Bars (City) Limited**  
**The Rose**  
**1 Harwood Terrace**  
**London**  
**SW6 2AF**

Registered number of holder, for example company number, charity number (where applicable):

**07551044**

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol:

**Robert Edward Gill**

**London**

Licensing Authority: **Elmbridge Borough Council**  
Personal Licence Number: **LN/200900059**

## **Annex 1 – Mandatory Conditions**

### **1. Mandatory Condition**

- (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).

### **2. Mandatory Condition**

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

### **3. Mandatory Condition**

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.

### **4. Mandatory Condition**

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.

### **5. Mandatory Condition**

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 the condition set out in paragraph 1—

(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—

$$P = D + (D \times V)$$

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 premises in respect of which there is in force a premises licence—

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force 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 (2) 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.

## **6. Mandatory Condition**

(1) No supply of alcohol may be made under the 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

## **Annex 2 – Conditions consistent with the operating Schedule**

7. Subject to the following exceptions, no person shall except during the permitted hours listed above, sell or supply alcohol for consumption on or off the premises or consume in or take from the premises any alcohol. The exceptions are

(a) during the first twenty minutes after the above hours, the consumption of alcohol on the premises;

(b) during the first thirty minutes after the above 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.

(c) where this licence permits off sales, during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;

(d) where this licence permits off sales, the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;

(e) consumption of alcohol on the premises by, or the taking of, sale or supply to, any person residing on the premises

(f) the sale or supply of alcohol to a trader or club for the purposes of the trade or club;

(g) 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;

(h) the taking of alcohol from the premises by a person residing there;

(i) 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;

(j) 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 designated premises supervisor, or the consumption of alcohol so supplied, if the alcohol is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises

8. Alcohol shall not be sold or supplied unless it is paid for before or at the time when it is sold or supplied, except alcohol sold or supplied;

(a) with and for consumption at a meal supplied at the same time, consumed with the meal and paid for together with the meal;

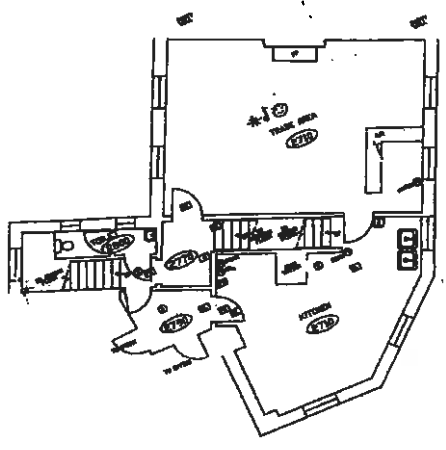
(b) for consumption by a person residing in the premises or his guest and paid for together with his accommodation

**Annex 3 – Conditions attached after a hearing by the licensing authority**

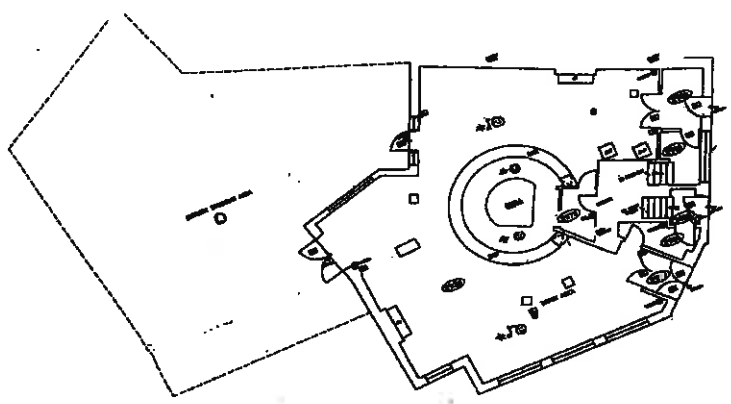
**Signed:**  
**Authorised Officer**

**Date: 25.02.2014**  
**Reissued Date:24.03.2015**

Annex 4- Plans:

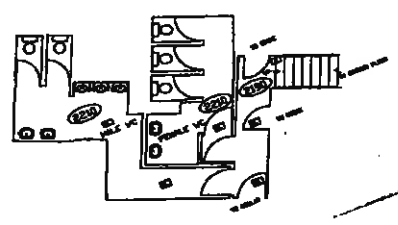


SCALE 1:100  
FIRST FLOOR



EXCLUDED SERVICES AREA - SEE PLAN 11  
IN LOCATIONS IN OFFICE  
IN LOCATIONS IN SECTION  
SCALE 1:100  
GROUND FLOOR

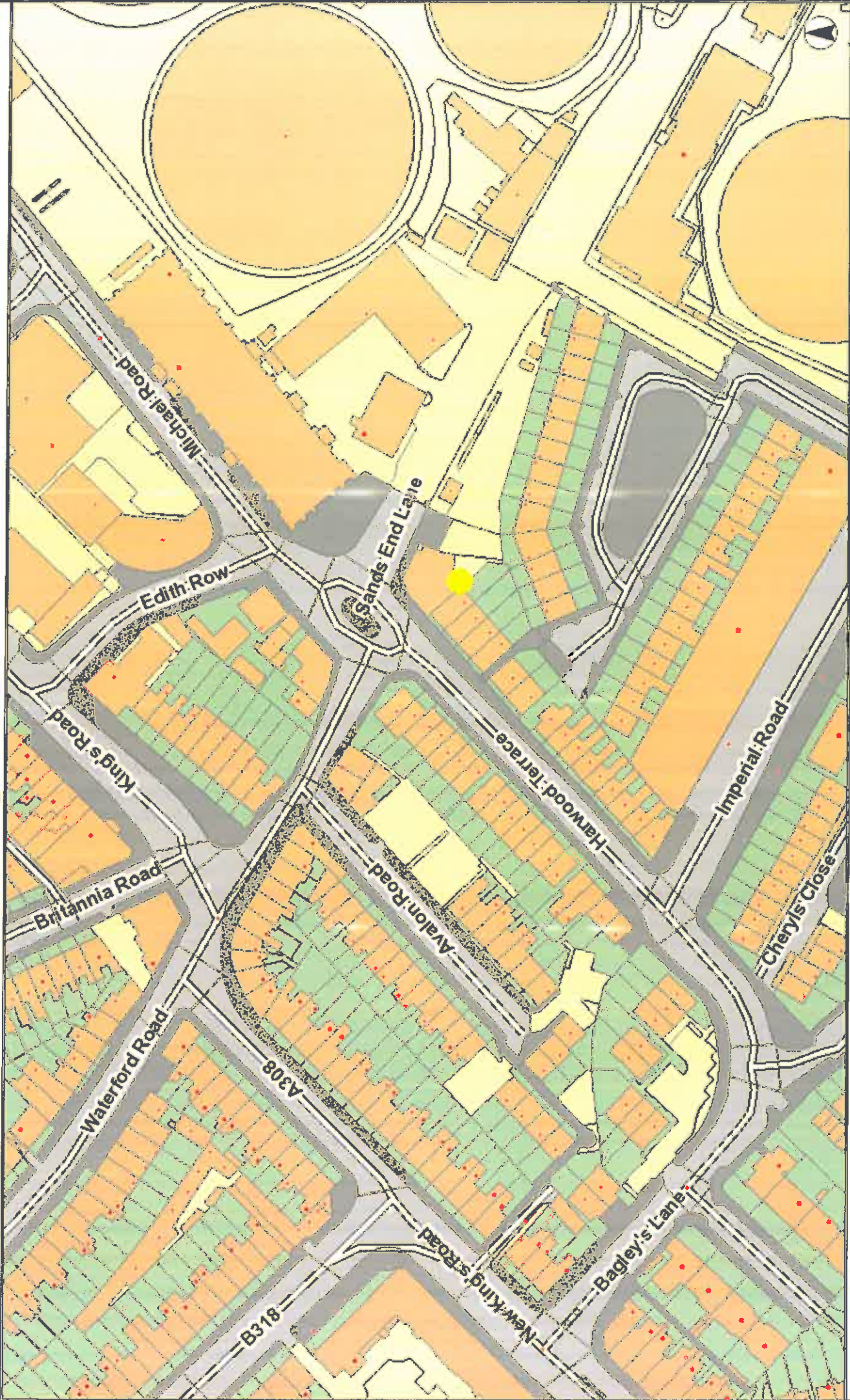
License number:  
2005/03455/LAPRTV



SCALE 1:100  
BASEMENT



London Borough of Hammersmith & Fulham



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Scale 1:1299

Printed on 20 Aug 2015

## Layug Karen

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**Subject:** FW: LBHF Premises License Review - The Rose (2014/08653/XNCPC)

**From:** Branko Bulovic [mailto:[branko.bulovic@bt.com](mailto:branko.bulovic@bt.com)]  
**Sent:** 05 August 2015 11:17  
**To:** licensing; Branko Bulovic; Zenica Anja Rapo  
**Subject:** Fwd: LBHF Premises License Review - The Rose (2014/08653/XNCPC)

Dear licensing team,

I write to you with regards the long-overdue **LBHF premises License review of The Rose (2014/08653/XNCPC)**.

My Family and I have lived at our property ( Harwood Terrace SW6 2AF) for over 10 years (2005).

We as a family have lived at this address for over 10 years as of 2005 and we have noticed that since the latest operators of The Rose have arrived = the noise and disturbance has at least trebled if not quadrupled over the previous operators. This has had a grossly negative impact on our lives as a family, as local residents, as well as on our dear neighbours.

The noise pollution and general anti-social behaviour emanating from The Rose's rear garden and on-the-street outside the establishment has been highest from 8pm until midnight and sometimes even 1am/2am. This is unacceptable and we have on numerous occasions had to call the council's noise complaints teams at night as well as the police due to different jurisdictions involved. This occurs almost every evening and night and is in no way a rare occurrence. At one point last year we had to call the council's noise disturbance line all week including weekends and the noise didn't abate even after the council team warned the operators of the noise pollution they were causing to the local long-suffering residents.

Our toddler's bed time is 8pm every day. This is not an early or late bedtime for a toddler and we see it as basic human rights in a residential area. We follow this timeframe of 8pm bedtime for our toddler and unfortunately this has been made impossible by the popularity of The Rose and our house, number 11, is the fifth house away from The Rose!

The noise of rowdy drunk patrons from the rear garden of The Rose has caused our toddler sleepless nights with the window slightly open for fresh air on the top floor (3rd level) of our home at the rear of the building closest to The Rose's offending rear garden. The constant screaming and howling and cackling and shouting from The Rose's patrons in the rear garden has even rudely awoken our toddler up on a weekly and regularly intolerable basis. **These** numerous and weekly incidents has been well documented by the council when we and other residents had the patience to call the Council team. On most occasions the thought of additionally bringing the kind council team into our bedrooms at anti-social hours of the night to 'witness' the noise pollution has proved unacceptable and due to this restriction there were numerous occasions of our innocent toddler's screams for peaceful sleep for hours at a time on a nightly basis leaving us angry and disappointed in the council system that allows this to go on for such a long time now.

My Wife and I have been rudely awoken from 11pm, midnight, 1am, and even after 2am due to the ejected patrons of The Rose who had not been encouraged to make their way home or onto another night-club type venue that would cater to their needs.

I have twice been to personally visit the operators of The Rose after work to express my concerns with the noise pollution emanating from their rear garden and their front on-the-street pavement revellers (once in the autumn of 2013 and once in the spring of 2014). I had asked the operators politely to stop the nose pollution after 8pm due to the ill-effects it was having on my young family and the other neighbours who felt powerless to act and didn't wish to further waste their time chasing the kind council out of hours noise nuisance team. On both these two personal visits I articulately and kindly asked for their assistance and was promised a positive response. However nothing came of the operators promises and the anti-social noise pollution has continued to escalate ever since and over the years.

Lastly I sincerely hope the council team heeds the residents' wishes for restrictions to be imposed on The Rose and its patrons' anti-social behaviour at the back and the front of the establishment. Here is our family's request for **license** restrictions in our residential area:

- A firm 8pm closure of the rear garden and noise control of the front pavement and road area for patrons smoking and drinking. We acknowledge the patrons' right to smoke and only request The Rose staff to control the noise pollution at the front of the establishment due to it being a residential area with families. We ask the operators to strictly keep the front pavement/road patrons as quiet as possible to allow our toddler and other families with children to sleep from 8pm.
- When the garden is open from 11am to 8pm, we request no patrons to be allowed to drink and smoke outside the front of the establishment on the pavement or road due to the garden access during those times.

Please acknowledge receipt of this email by reply in order to confirm receipt before the 6th August deadline for submissions as confirmed by Mr. Julian Trill the Bi-borough Area Senior Officer. Thank you

Best regards,

Mr. Branko Bulovic

Mr. Branko Bulovic, ACSI  
& family.  
Harwood Terrace, SW6 2AF.

t: + 44

## Layug Karen

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**Subject:** FW: premises licence review, The Rose Pub, Harwood Terrace, SW6 2014/08653/XNCPC

**From:** Chiara Betta [mailto:chiara.betta@bt.com]

**Sent:** 05 August 2015 14:28

**To:** licensing

**Cc:** Trill Julian: TTS-EnvHealth: RBKC

**Subject:** re: premises licence review, The Rose Pub, Harwood Terrace, SW6 2014/08653/XNCPC

Dear Sirs,

I would like to submit a representation for the closure of the beer garden of the Rose Pub, 1 Harwood Terrace SW6, each night at 21.00 hours.

My reasons are simple and straightforward.

Firstly, the bedroom of my eleven years old son is on the side of the beer garden. In spring time and in the summer I sometimes have to move my son to the guest bedroom as he cannot fall asleep as a result of the noise of the beer garden. This is extremely disruptive when my son goes to school. I would like to stress that on one occasion I had to move my son to the guest bedroom when only four customers were talking too loudly in the beer garden. This incident clearly shows that even a small number of customers can affect the sleep of neighbours. I would also like to submit to your consideration that my husband's step-father is eighty-nine years old and my mother is eighty-three years old. As we might need to take care of them for lengthy periods of time, we need to keep the guest bedroom free and therefore I believe that my son should have the right to go to bed in his own bedroom at nine o'clock in the evening.

Secondly, our television room/sitting room is also on the side of the beer garden. This is the room where we usually relax. Since we spend most evenings at home -often reading- it can be extremely unpleasant to hear people shouting on a regular basis.

I would therefore appreciate if you could take into considerations my reasons for the closure of the beer garden of the Rose Pub at 21.00 hour.

Thank you very much in advance,

Kind regards,

Chiara Betta

Harwood Terrace  
SW6 2AF

tel.

## Layug Karen

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**Subject:** FW: Premises Licence Review - The Rose (2014/08653/XNCPC)

**From:** Natale Giostra [<mailto:>]  
**Sent:** 05 August 2015 16:06  
**To:** licensing  
**Subject:** Premises Licence Review - The Rose (2014/08653/XNCPC)

Dear Sirs,

I'm resident in Harwood Terrace, SW6 2AF. I have been living in the property since 1st of November 2012, after carrying a full 6 months refurbishment of the house including replacing all the windows with new double glazing windows.

However I exchanged for the property in March 2012 and carried a small due diligence personally to assess if the beer garden of Rose pub would cause noise disturbance to the residents. Since the garden is enclosed and surrounded by houses, even few people loudly talking would echo against the houses and cause disturbance.

In my assessment the beer garden of the Rose pub resulted to be a quiet, relaxing place.

However, around the time I completed the purchase (June 2012), the current pub operator came in place. Since then the pub has been transformed in a youngster party pub with an extremely noise and loud beer garden.

Every Thursday, Friday and Saturday the beer garden of the Rose pub causes disturbance. In the summer months is even worse to the point that I cannot watch TV in my living room, let alone sleep.

Depending on the weather, also the rest of the week can be loudly and noisy, even with few people sitting in the garden because is enclosed and surrounded by houses and echoed against the houses.

The beer garden is generally open until 22.30 but not having opening limitation in their licence, the current management could decide to close later.

After closing time, the waiters clean up the garden of empty glasses and bottles, moving tables and chairs around for another good half an hour. The cleaning of the beer garden is also very disturbing process effecting us in the same way. After this cleaning process the garden is fully closed.

Although two of our bedrooms (out of four) and our living room are directly facing the beer garden, the noise can be heard in my 11 months old baby room which is facing Harwood Terrace due to the echo. My son gets suddenly awaked by the high tones and loud voices coming from the beer garden. This is a continuous source of stress for the entire family. My wife and I have extreme hard time to get asleep because of the garden and because of being worried about our son be awaked.

My mother-in-law, who lives with us for mostly of the time in the third floor room facing the garden doesn't manage to get asleep until the garden is fully closed either.

We have initially approached the management of the pub asking them to manage their guests, trying to avoid to overcrowd the beer garden. Their response has always been cordial but they haven't taken any measurement to improve to situation.

Only after we have involved the council, they have tried to implement various calming features with very poor results. The situation has not improved for us whatsoever.

In order to improve the situation I would like to see imposed the following conditions/restrictions:

1. There shall be no customers in the rear garden between 21:00 hours and 11:00 hours the following day.
2. The external doors opening on to the garden of the Premises shall be fitted with a self-closing device and shall be kept closed except for immediate access and egress. The door shall be locked closed between 21:00 hours and 09:00 hours the following day.
3. There shall be no clearing of glasses or any cleaning or maintenance within the garden of the Premises between 21:00 hours and 09:00 hours the following day.

In addition: this should include moving around of furniture

4. Clearly legible notices shall be displayed on each table in the garden, requesting patrons to respect the needs of local residents by not making excessive noise.

In addition: this should be controlled by staff and if excessive noise occurs staff should interfere

5. Clearly legible notices shall be displayed at all exits from the Premises requesting patrons to respect the needs of local residents and to leave the Premises and area quietly.

In addition: Doormen should interfere if this doesn't happen, this includes phone calls in front of residence made by patrons who only stepped out of the pub to make this call and will return again, they are still customers of the pub

6. The Premises shall adopt and implement a Garden Noise Management Protocol. The Protocol is to be agreed in writing with the Council within 28-days of this hearing, detailing the measures, monitoring and staff training that will be carried out in order to minimise the noise generated by patrons within the garden.

7. A dedicated telephone number for the Designated Premises Supervisor or the duty manager shall be maintained for use by any person who may wish to make a complaint during the operation of the licence, which shall be provided to the Licensing Authority and local residents' associations. Any change to the number shall be notified to the Licensing Authority and to local residents' associations within 7 days of the change.

8. A record shall be kept of all complaints which shall be available for inspection by the Licensing Authority and the Police at all times when the Premises are open.

9. match days: the pub garden becomes an extension of the Chelsea stadium as witnessed by Julian Trill. Excessive drinking occurs. Chanting as loud as they possibly can. The garden is packed, including every bit where they can possibly stand. Julian Trill and many duty officers on several occasions over the last 1.5 years have witnessed this all and were shocked. The singing and screaming is out of control. Hence the garden should not be allowed open after match days at all. As we understand the importance in income for the pub, we only prompt for the garden to be closed after the match and not before the match, even though similar problems occur. We realize it's give and take – and we find this a reasonable compromise.

10. In addition: what's really important is that no vertical drinking is allowed at all times. Vertical drinking doesn't have anything to do with guests having dinner, which they claim to be: gastro pub. The garden is already very big – if there's no table to sit on, the garden should be declared full and you're not allowed to start drinking while standing up. It's often addressed by Julian Trill and Dominique that vertical drinking is a different crowd than guests sitting down for dinner.

Many thanks.

Natale Giostra

**Layug Karen**

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**Subject:** FW: Premises Licence Review - The Rose (2014/08653/XNCPC)  
**Attachments:** The Rose pub.pdf; Emails..pdf; Noise & Nuisance diary.pdf

**From:** Merel Woe [  
**Sent:** 06 August 2015 15:35  
**To:** licensing  
**Cc:** Trill Julian: TTS-EnvHealth: RBKC  
**Subject:** Fwd: Premises Licence Review - The Rose (2014/08653/XNCPC)

Good afternoon,

Please find my representation attached, plus the diary and some of the emails to back up my statement.

Kind regards,  
Merel

After a fierce house hunt it seemed we had found our home in 2012. But it was located next to a pub, and that's something you need to consider. Before even putting an offer in, we have been to the pub several times on several different times and days in the week to feel the atmosphere and if it is a pub that's going to be of any disturbance. As we use to live practically inside the Stamford Bridge and around the corner of the Butchers Hook where we were regulars and never had any disturbance from them, we came to the conclusion this is a similar type of gastro pub. We've put in an offer, exchange a few months later, refurbished and while we were busy the pub changed management. A bit nervous on what's going to happen we had a chat with new Director, Mr Gill, who explained us they want to be a much better gastro pub than it was, with good food and wines – it sounded very promising. And the first year went reasonably well, but in the summer of 2013 we noticed the first changes. Works were done in the garden, big umbrellas with heathers were placed, more seats and tables added. The noise started to increase, guest changed and got younger and younger till a climax the second weekend of February.

A short summary of the events:

- 1 guy vomiting next to our fence (not the first time)
- bunch of drunk guys who thought it was funny to open my fence, through in a drunk friend, close the gate and make pictures.
- a guy who was stripped down butt naked (literally) who was pushed by his friends against my bike to 'ride it' and not the way you ride a bike if you know what I'm saying.
- a guy screaming and trying to pick a fight with some of your other customers, and a friend who tried to stop him.

We had been in touch with the pub on a few occasions already (I've attached an example) but this was such a significant change and for me so clear that it is more a party pub than a gastro pub where youngsters hang out and drink until the clubs around Fulham Broadway and Kings Road open, that I felt I need a serious change in how they are dealing with this. I've sent an email, summarizing my fears, what had happened, explaining them I want them to be given an opportunity to change and suggested a meeting.

You'll find that email attached.

We waited patiently for a couple of months as we know changes don't happen overnight, but when a new level was reached the weekend of 31 May / 1 June we figured not much has changed or will change if we don't act.



So we've emailed again (note this doesn't concern only the garden, but the garden is also addressed) made suggestions and mentioned that if they can't change it, we will seek help from the council.

They've requested a meeting, which we agreed to, and as always this went well, but nothing changed after that, none of the promises kept, which Julian Trill will soon find out for himself and what you can read back in the noise & nuisance diary)

We have called the duty officers about 3 times a week for the next couple of months. Most of them we know well. (some of them so well that they already asked on the phone if the baby was born)

Some of them were shocked how you can hear the noise with the door closed and the TV on.

Duty officer Julian Trill had a meeting with the management of the pub in August 2014. He was surprised that 2 months later none of the actions that were agreed in that meeting were followed up. In addition, even after a meeting with the council the noise disturbance was not reduced – not even a little bit. 5 November 2014 Julian Trill informed me an abatement notice is served.

This has been withdrawn on Julian's advice.

Since then lousy actions were taken by the pub, I assume to reduce noise albeit I don't see how it would reduce noise. The wooden fence was made a few centimeters higher and sometimes and for a limited time they closed half of the garden around 10 pm, only by telling everyone who were sitting at tables, to stand on one side of the garden. If you still have the same amount of people in the garden, it won't reduce any noise of course. And the fact that it is an enclosed garden surrounded by residence, will make things only worse because of the echo.

And every time, even on the councils request explaining the management it will show some good will, they refused to put any of the actions they intent to take on their license – which gives me reason to believe you don't intent to keep your promise.

The noise is always there. In the weekend it starts in the afternoon around lunch time, but the real disturbance is the evenings. I understand I have chosen to live next to a pub and I'm willing to take the consequences, of course I will hear people next door in the garden, also during the day. But with the strict regulations in the UK regarding drinking and public houses, closing times and considering residents, I never expected this - the pub decides when I can go to bed. We are put up with a lot and are willing to except that but at some point our house needs to be returned to us. I need to be able to go to bed at 9 pm if I don't feel well or if my son woke

up at 5 am that morning. It's a very big garden enclosed garden and when it's full, with people sitting down, there is an awful lot of noise. I can put up with it during the day and evening as long as I know at 9 pm I can watch tv normally or go to bed if I want to.

Against government advise to co-sleep with your baby to prevent cot death the first 6 months of his life I have moved my baby to his own room at the age of 3 months. He was so often woken up, a couple times an evening by screaming people, guest singing 'happy birthday' or laughing really loud. I had the noise disturbance in echo: live from my living room and through the baby monitor. Can you imagine the noise is so loud that you can hear it through the baby monitor that is as far away from the window as possible (and we have a big double bed bedroom!) Sometimes I wasn't sure if I heard my baby or if it was just the pub garden. Even now my baby is in a room in the front of the house he is sometimes woken up by sudden singing or screaming.

After the pub decided to close the garden it's not over yet, you have to wait till it's cleaned, the furniture dragged back into place, glass thrown in a big plastic tray, dust pan dragged over the floor sometimes staff talking with each other while they are each of them are in the other end of the garden.

They can decide to do this straight after the close the garden, often at 10.30 pm. But sometimes they will start at 11 pm and if we are really 'lucky' it will wake you up at midnight when they close.

The football matches are the worst, before and after the match, both. However, win or loose, after the match the alcohol consumption rises to the highest level thus also will the shouting, singing etc. – alcohol will make you happy and sing whatever the result is, or so I've learned.

The pub garden becomes an extension of the Chelsea stadium as witnessed by Julian Trill. Excessive drinking occurs. Chanting as loud as they possibly can. The garden is packed, including every bit where they can possibly stand. Julian Trill and many duty officers on several occasions over the last 1.5 years have witnessed this all and were shocked. The singing and screaming is out of control. As we understand the importance in income for the pub, we only prompt for the garden to be closed after the match and not before the match, even though similar problems occur. We realize it's give and take – and we find this a reasonable compromise.

We have been asked to keep a diary which I did for a couple of weeks. I have attached this.

As this has been a long process, and we've put a lot of effort in solving it, becoming a mother for the first time with already a lack of sleep and not able to catch up with it when my baby was sleeping, I suffered from a light depression. Normally I managed to control myself until the duty officers have left, except for one time, where I just started crying in front of I believe her name is Ursula Berrick. The medicine I take when I start to feel really anxious to calm me down and prevent me from bursting into tears and the thought that we might be able to actually make a change now make me feel much better.

The conditions/restrictions I think should be imposed are similar to Julian's and adding a few things that have been discussed with Dominique and Julian in several meetings held at our house and visits from Dominique when we called the Noise Disturbance team, and were considered reasonable.

**1. There shall be no customers in the rear garden between 21:00 hours and 11:00 hours the following day.**

**2. The external doors opening on to the garden of the Premises shall be fitted with a self-closing device and shall be kept closed except for immediate access and egress. The door shall be locked closed between 21:00 hours and 09:00 hours the following day.**

**3. There shall be no clearing of glasses or any cleaning or maintenance within the garden of the Premises between 21:00 hours and 09:00 hours the following day.**

**In addition: this should include moving around furniture**

**4. Clearly legible notices shall be displayed on each table in the garden requesting patrons to respect the needs of the local residents by not making excessive noise.**

**In addition: this should be controlled by staff and if excessive noise occurs staff should interfere**

**5. Clearly legible notices shall be displayed at the exits from the Premises requesting patrons to respect the needs of local residents and to leave the Premises and area quietly.**

**In addition: doormen should interfere if this doesn't happen, this includes phone calls in front of residence, made by patrons who only stepped out of the pub to make this call and will go back inside again – they are still customers of the pub**

**6. The Premises shall adopt and implement a Garden Noise Management Protocol. The Protocol is to be agreed in writing with the Council within 28-days of this hearing, detailing the measures, monitoring and staff training that will be carried out in order to minimise the noise generated by patrons within the garden.**

**7. A dedicated telephone number for the Designated Premises Supervisor or the duty manager shall be maintained for use by any person who may wish to make a complaint during the operation of the licence, which shall be provided to the Licensing Authority and local residents' associations. Any change to the number shall be notified to the Licensing Authority and to local residents' associations within 7 days of the change.**

**8. A record shall be kept of all complaints which shall be available for inspection by the Licensing Authority and the Police at all times when the Premises are open.**

**9. Garden should be closed after the match on match days**

**10. (what's really important is that) NO VERTICAL DRINKING IS ALLOWED at all times. Vertical drinking doesn't have anything to do with guests having dinner, which they claim to be: gastro pub. The garden is already very big – if there's no table to sit on, the garden should be declared full and you're not allowed to start drinking while standing up. It's often addressed by Julian Trill and Dominique that vertical drinking is a different crowd than guests sitting down for dinner. Full is full policy – you can't keep adding people when there are no tables left to sit on, it's already a large garden with loads of tables. There are groups of friends drinking and during the course of the evening more and more friends join and just hanging around the table as there are no seats left – they are not having dinner, this doesn't happen in a gastro pub. If there are not tables available, patrons shouldn't be allowed to gather in the garden, standing where ever they can.**

## NOISE & NUISANCE DIARY

**YOUR NAME:**

Merel Woe  
natale Giostra

**YOUR ADDRESS:**

Harwood Terrace

**ADDRESS OF SOURCE OF NOISE/NUISANCE:**

The Rose  
1 Harwood Terrace  
London  
SW6 2AF

**CASE REFERENCE:**

2014/08653/XNCPC  
2015/03814

# Noise Diary

Date	Start time	Finish time	Description of the noise	How does the nuisance affect you and where is it coming from.  Describe how the noise affects the use of your property (e.g. prevents you using a room, interferes with sleep or watching TV, means you have to close your windows, etc.). Does it affect you in different rooms? Does it prevent conversation? Describe how the noise makes you feel Provide as much information as you can about how the noise affects you.
10/4	9 PM	10.20 PM	too many people standing and drinking, no eating, loud talking, laughing, cleaning, moving furniture, glasses clinking	it affects watching tv, you continuously hear talking, laughing etc. can't go to bed. Have to wait 9.15 but party is over - but people are only muted and now noise are standing. no change in noise 9.30 2nd part is cleared noise are standing 9.50 every body inside 10.00 (10.20-) the horrible cleaning starts 10.40 I can go to bed
11/4			Same as above	
12/4			Same as above	

# Noise Diary

Date	Start time	Finish time	Description of the noise	How does the nuisance affect you and where is it coming from. <i>Describe how the noise affects the use of your property (e.g. prevents you using a room, interferes with sleep or watching TV, means you have to close your windows, etc.). Does it affect you in different rooms? Does it prevent conversation? Describe how the noise makes you feel Provide as much information as you can about how the noise affects you.</i>
15/4	9 pm	10:30 pm	<p><del>the</del> system</p> <p>too many people no dining - so (loud) talking, everything occasional screaming</p>	<p>new system of the wall before is out of the window already so same as before. The noise is always there even with windows closed and watching tv. Can't go to bed. Garden is closed at 10:30. cleaning another 20 min. 2 staff members talking while cleaning, talking about her mum in pre-hera have to wait till go to bed</p>
16/4	"	"	"	"
17/4	9 pm	10:45 pm	<p>not so busy and some eaters, but a group of youngsters drinking (a lot) and very loud till 10:30</p>	<p>same effect as always. loading laundry: cleaning up - with other windows waiting to go to bed</p>

# Noise Diary

Date	Start time	Finish time	Description of the noise	How does the nuisance affect you and where is it coming from. <i>Describe how the noise affects the use of your property (e.g. prevents you using a room, interferes with sleep or watching TV, means you have to close your windows, etc.). Does it affect you in different rooms? Does it prevent conversation? Describe how the noise makes you feel Provide as much information as you can about how the noise affects you.</i>
10/4	2:30 pm		we have a little stadium in the garden. extremely loud, only supplies	you can leave the windows closed but even then a lot of noise. However, the garden closes at 9 pm! I almost cried, this time out of happiness
24/4	9 pm	11:20 pm	Same as always but this time cleaning is much longer. doors are opened and closed, people want to go out but returned back in	in bed crying this time. I'm so tired woke up at 5:30 am. just want to sleep. Closing a closed window doesn't help.
29/4				A proof staff is not managed well and rules are needed. If people/guests are instructed to smoke around the corner, how come they themselves are smoking, sitting on the ground in the sun next to our fence?? See picture



# Noise Diary

Date	Start time	Finish time	Description of the noise	How does the nuisance affect you and where is it coming from.  Describe how the noise affects the use of your property (e.g. prevents you using a room, interferes with sleep or watching TV, means you have to close your windows, etc.). Does it affect you in different rooms? Does it prevent conversation? Describe how the noise makes you feel Provide as much information as you can about how the noise affects you.
30/4	9pm	11pm	extremely noisy this time, no one eating, people standing drinking as there are no tables. people screaming	Garden is cleared at 9.40, done by 9.55 weird time, different time still can't sleep as the cleaning lasts till 11pm note cleaning always involves moving furniture around by dragging them over the floor, dragging the brick and dustpan, piling glasses in a plastic box
1/5	9pm	10.40 PM	not a lot of people, but 2 big groups producing a lot of noise. no one eating. one of the groups is a birthday party - the	I think I see the security guy, who I sometimes see standing at the door in the back. Why doesn't he say you can't sing? I feel frustrated, can't sleep I hear the singing while watching +V it always ends with lots of screaming start singing at 10.45pm
2/5	9pm	10.45pm	another birthday party, same group feels they need to sing twice and scream a/course	only 2 large groups, you can still hear it with door closed a tv on - If I could have known it would stop at 9, then I can relax, drink a cup of tea and go to sleep, it would not make me feel like crying, depressed I would be able to understand it

# Noise Diary

Date	Start time	Finish time	Description of the noise	How does the nuisance affect you and where is it coming from. <i>Describe how the noise affects the use of your property (e.g. prevents you using a room, interferes with sleep or watching TV, means you have to close your windows, etc.). Does it affect you in different rooms? Does it prevent conversation? Describe how the noise makes you feel Provide as much information as you can about how the noise affects you.</i>
3/5	3:30 pm	6:30 am	match day loud chanting packed garden vertical drinking	Julian visits a has recordings Anxious as you never know how long it will last Mum's got worse as people get more and more drunk. Sam came out. but you can't open the window or doors to the garden. with windows closed is already horrific. 5:30 to 6:20 am it was the worst. it died down at 6:30 am there were some No. mak' guests no supporters, they left and after that the garden closed (9pm) no cater's
7/5	11 pm	11:20	cleaning started	getting nervous. when will it stop? can I go to bed? if it was a nice day like the 5th could this weekend I can't open my doors
8/5	6:45 pm		loud group of guys gets worse as work the later it gets 7:25-7:30/32 singing	-> nobody says anything
8/5	9:45 pm	11 pm	loud because of people talking or drinking	Can't sleep, can't go to bed 1/3 of the garden is closed but still the noise is too loud to go to sleep. all evening nobody was having dinner
8/5	10 pm			2nd part of the garden closed. Chiara got home and I received a sms that her son has to sleep in another room

# Noise Diary

Date	Start time	Finish time	Description of the noise	How does the nuisance affect you and where is it coming from.  Describe how the noise affects the use of your property (e.g. prevents you using a room, interferes with sleep or watching TV, means you have to close your windows, etc.). Does it affect you in different rooms? Does it prevent conversation? Describe how the noise makes you feel Provide as much information as you can about how the noise affects you.
9/5	9am	11.15pm	the usual + a chattering cleaning team	leaving the garden, being unable until 10/5
10/5	3-3.50pm 5.45pm		match day singing, too many people, too much noise, loud talking, noisily eating, just drinking	(note: I left for the afternoon too avoid it a bit but had to come back to a fully packed a singing garden because of my baby. we had a break for the match, where there were just people chatting in the garden and since is day time the noise was acceptable the foot ball crowd come back of course
16/5	9.10pm	11pm	garden is half full, no one eating or had dinner chattering still	it prevents me from going to bed in opening the doors to the garden. it has been a warning. too go to bed or leave the doors open
15/5	9pm	9.50pm (with cleaning)	too much noise was called it in. no one's eating young crowd loads of verbal chattering	I woke up at 6 am for a couple of days now. want to go to bed at 9.50pm and I can't I have to wait till the close and clean the garden. It prevents me using my own bedroom until the Pub decides to finish and it makes me feel very depressed

Duty officer  
Phillip B

weirdly enough the close the garden at a strange time. 9.50pm. Duty officers (couldn't witness) I was looking out at the windows. I was looking out at the windows. I was looking out at the windows.

# Noise Diary

Date	Start time	Finish time	Description of the noise	How does the nuisance affect you and where is it coming from.  Describe how the noise affects the use of your property (e.g. prevents you using a room, interferes with sleep or watching TV, means you have to close your windows, etc.). Does it affect you in different rooms? Does it prevent conversation? Describe how the noise makes you feel Provide as much information as you can about how the noise affects you.
22/5	0.45		Very loud talking Some times screaming Normal talking also, but with too many people	<p>(x 0.55 pm = example of exact timing of singing)</p> <p>since I'm very tired but know I can't go to bed for a long time. I even hear it when they 'scream' / raise voices while watching TV. There's singing and clapping nearby. Garden is checked by 2 with a court. One side is a park area with people standing &amp; drinking. The other side people are sitting &amp; loud in general, not sitting properly on a table and nobody's eating. The garden is closed at a weird time: ± 9.50-10.00 cleaning &amp; talking woke me up again at 10.35 pm</p>
			Duty officer Dad witnessed at 9.15 pm. They went to the pub garden. Agreed nobody's eating and even with windows closed too noisy	

# Noise Diary

Date	Start time	Finish time	Description of the noise	How does the nuisance affect you and where is it coming from. <i>Describe how the noise affects the use of your property (e.g. prevents you using a room, interferes with sleep or watching TV, means you have to close your windows, etc.). Does it affect you in different rooms? Does it prevent conversation? Describe how the noise makes you feel Provide as much information as you can about how the noise affects you.</i>
25/5	16 pm	8.35 pm	too many people talking, screaming & singing	Garden closes at 8.35
<del>28/5</del> 3/6	<del>12.00</del> 7 pm	10.30 pm	Heavy band talking and generally screaming due to alcohol with cold drinking	My wife is sick in bed with earplugs on but unable to sleep because the garden
11/6	2 pm	10.30 pm + cleaning		Dom came to witness the noise. We couldn't go to bed before the garden was empty and clean. <del>cleaning</del>

# Noise Diary

Date	Start time	Finish time	Description of the noise	How does the nuisance affect you and where is it coming from. <i>Describe how the noise affects the use of your property (e.g. prevents you using a room, interferes with sleep or watching TV, means you have to close your windows, etc.). Does it affect you in different rooms? Does it prevent conversation? Describe how the noise makes you feel Provide as much information as you can about how the noise affects you.</i>
2/6/15	8pm	not sure	A	<p>Today is raining. but the problem is still very noisy. we cannot go to bed before it is closed.</p> <p>URSULA / BERRICK (nanny officer) came to witness ursula was shocked by the noise while it rained a lot and not so many people in the garden (No one eating). She said it must be because it's enclosed and because of the echo. Even though the garden is not full, not even close, still lots of noise nuisance. A bit of singing and screaming. the garden closed earlier not sure of the time. While watching tv i realised at around 10.10pm the noise was gone.</p>



Merel Woe

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**After work drinks**

1 message

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**Merel Woe** <

Tue, May 14, 2013 at 12:55 PM

To: info@therosefulham.com

Cc: Natale Giostra <

Hi guys,

It happens more and more often that your 'after work drinks' (I assume) are in the garden of the pub - and your working hours are different than ours...

I'm sure you're not screaming, but as it is past midnight, and sometimes till 2/3 am, everything you say and all the laughter will sound much louder than during the day.

I understand a catch up after a long day of hard work - but I would appreciate it if you can do them inside....

And perhaps the occasional cigaret in front of the door of the pub where there are offices.. or quietly in the garden

We would appreciate it!

Thanks

Your neighbors Merel & Natale



Merel Woe

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## Don't forget your neighbours!

1 message

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**Merel Woe**

Mon, Feb 10, 2014 at 5:55 PM

To: Merel Woe

Hi guys,

Before reaching out to anyone else, we're reaching out to you, hoping you'll take the appropriate actions, as you've always listen to what we have to say. And that is highly appreciated.

This weekend was the worst I experienced so far due to having a pub as neighbours. The music was really too loud, with all the windows close, yours and ours, I still could understand which song you're playing in both my living room and the bedroom. Especially Saturday. I've tried calling you - but I assumed you couldn't hear the phone ringing. As it was close to midnight I didn't call anyone else as you always close the pub exactly on time (thank you!)

However, I would like you to urge your customers to leave pub quietly and above all, leave the street or stand on the other side of the pub and not in front of our house. This happens more and more often and more than once I ended up requesting them to leave.

This weekend it was worse:  
During those two evenings I had:

- 1 guy vomitting next to our fence (not the first time)
- bunch of drunk guys who thought it was funny to open my fence, through in a drunk friend, close the gate and make pictures.
- a guy who was stripped down butt naked (literally) who was pushed by his friends against my bike to 'ride it' and not the way you ride a bike if you know what I'm saying.
- a guy screaming and trying to pick a fight with some of your other customers, and a friend who tried to stop him.

As you are turning more and more into a party pub and not the gastro pub you mentioned (unfortunately) we think these events will only get worse.

Therefor we want to give you the opportunity, and I know you will do what you can, to try to solve these things so we are not bothered by living next door to a pub.

Let us know if you need any more feedback or if you want to meet to discuss this.

Best wishes,  
Merel & Natale





Merel Woe

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**Re: Guests**

1 message

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**Merel Woe**

Mon, Jun 2, 2014 at 12:49 PM

To: Robbie Gill

Cc: Tom Gill

Hi Robbie

I'll be on holiday from Wednesday onwards and won't be able to make it tonight or tomorrow due to other appointments

We're free on 16 or 19 June if you want to come over

Thanks  
Merel

On Mon, Jun 2, 2014 at 12:44 PM, Robbie Gill

wrote:

Hi Merel,

Thank you for your email.

When are you at home this week and I will pop in and talk this through with you?

Kind regards

Robbie

**From:** Merel Woe [r]  
**Sent:** 02 June 2014 10:56  
**To:** Robbie Gill; Tom Gill  
**Subject:** Re: Guests

Dear both,

I should have copied in Tom when I emailed on Friday, as this is one of the things we've discussed in February.

Unfortunately the disturbance and reason for my email occurred on Friday night. Saturday night was even worse. The last guests leaving the streets was 1 am after a lengthy discussion where to go

next. But till at least 00.30 am there was huge group of people talking and laughing in front of the pub. Friday might have been a fight as I heard some name calling too. May I remind you the bedroom is on the garden side of the house - and still it woke me up. You must have seen the huge group standing outside your door and it didn't occur to anyone of the staff inside to send them away.

What never happens but what happened on Saturday: the garden was cleaned with the doors slightly open. I've called 5 times as I wanted to ask you to close the doors since I was trying to sleep. Only to be wake me out of my sleep an hour later when you closed the pub. It's very frustrating when I'm trying to reach out, it's a dead end.

I've noticed plastic cups laying around, which I assume comes from you. I've also noticed you do clean the front of the pub the next morning. Unfortunately they often end up in front of our house and behind our fence. If you make sure your guests stay on the other side of your building and not give them the cups when they leave the pub as gives people the idea they are welcome to hang around outside to finish their drinks, it would make a difference I think. Sometimes they install themselves sitting cosy on the roundabout. I don't always see people walking around with cups, but I would rather see them not at all.

My idea to solve this would be to:

- urge your guests when they leave your pub (at any time) to leave the street
- tell them to consider the neighbours
- don't give them their drinks in plastic cups
- have the doorman outside (in the weekend) also and especially when you close, leading people away from the pub, keep them moving, until they are gone
- have your staff keep an eye on the streets after closing time and during weekdays to make sure your guests are leaving.

We have discussed this in February as well. These are not unusual things and before I was pregnant and in pubs till closing I have seen these same things at other pubs.

Comparing to last year, the noise (in front and the garden) has increased enormously to the point I would call it disturbance which I didn't had our/your first year. Of course I understand this is due to your increasing business and the care you are taking into the pub and the business, which of course is great for you, but it does come with down sides for the neighbourhood we couldn't have foreseen.

I appreciate the gesture of giving me another bottle of wine. That's very kind indeed but please don't worry. I'm in and out the house the coming days and you don't need to go through the trouble of going back and forth to our house. It's more important this issue gets solved.

I do want to be honest and say, even though I appreciate the open discussion we have had so far, at some point I will ask the counsel to assist in controlling this. I hope you understand. I don't mean to say this as a threat, but as a continuation of our open and honest discussion, and in the end we need to make sure our house stays our home and a pleasant place to live at any time of the day.

Kind regards,

Merel

On Sun, Jun 1, 2014 at 2:27 PM, Info The Rose <info@therosefulham.com> wrote:

Hi Merel,

We are sorry to hear that you were disturbed last night.

We treat all disturbances to our neighbours as a matter of the utmost importance.

We will do all we can to ensure that the exit of our guests in the evening time is kept as discreet as possible.

I will have a bottle of wine dropped round later today as an apology and a thank you.

Please feel free to call me directly if you wish to discuss this matter further.

With kind regards

Robbie Gill

-----Original Message-----

From: Merel Woe  
Sent: 31 May 2014 00:27  
To: Info The Rose  
Subject: Guests

Guys

Just tried calling you

You really need to ask your guests to leave (and consider the neighbours). The whole pub is now outside your door.

Regards

Merel

Sent from my iPhone



Merel Woe ·

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**Party pub**

1 message

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**Merel Woe ·**

Sat, Mar 7, 2015 at 11:41 PM

To: Robbie Gill <

Bcc: ·

Robbie

The music is outrages - one big party pub

You gave me your mobile so I can call you when the manager is not answering but you're not answering either

I left you a voicemail

This is absolutely ridiculous, I actually recognise the songs while lying in my bed

Sent from my iPhone

- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.
- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website ([www.legislation.gov.uk](http://www.legislation.gov.uk)). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

## **Powers of a licensing authority on the determination of a review**

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;

- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)<sup>10</sup>;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

## **Reviews arising in connection with crime**

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

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<sup>10</sup> See chapter 15 in relation to the licensing of live and recorded music.

London Borough of Hammersmith and Fulham  
Bi-borough Noise & Nuisance Team, Environmental Health Department  
Council Offices, 37 Pembroke Road, London, W8 6PW  
Tel: 020 8753 1084  
Email: [environmentalprotection@lbhf.gov.uk](mailto:environmentalprotection@lbhf.gov.uk)  
Web: [www.lbhf.gov.uk](http://www.lbhf.gov.uk)



**8 August 2014**

Mr Tom Gill & Mr Robert Gill  
The Rose  
1 Harwood Terrace  
London  
SW6 2AF

When telephoning please ask for:  
**The Duty Environmental  
Health Officer**  
0208 753 3376

Our Ref: **2014/08653/XNCPC**

Dear Messrs Gill,

**LICENSING ACT 2003 / ENVIRONMENTAL PROTECTION ACT 1990**  
**The Rose, 1 Harwood Terrace, London, SW6 2AF**

**Noise Nuisance from Patrons in the Rear Garden**

I regret to inform you that on **31 July 2014** the Bi-borough Noise & Nuisance Team received a complaint alleging nuisance caused by loud voices/shouting within the beer garden of premises.

On 31 July 2014 at 21:46 hours officers witnessed excessive noise from the raised voices of a large number of patrons in the rear garden of the premises. A number of similar complaints have been witnessed on the following dates:

**26 April 2014**  
**1 May 2014**  
**3 July 2014**  
**18 July 2014**  
**19 July 2014**  
**21 July 2014**  
**26 July 2014**

I must draw your attention to the provisions of the **Environmental Protection Act 1990**, which gives local authorities powers to abate noise nuisances. A Noise Abatement Notice could be served on you, formally requiring you to ensure that no further noise nuisance from patrons in the rear garden should arise. The maximum penalty, on conviction, for non-compliance with an Abatement Notice is £20,000.



**Director of Transport and Technical Services**  
**Nigel Pallace**

EP5D045 v1 09/01/2012

Furthermore, as a licensed premises you also need to be aware that Environmental Health, or residents, can request that the Licensing Authority holds a Review hearing under the **Licensing Act 2003**. The Review hearing could limit or revoke the use of the rear garden that is currently permissible under the premise licence, or even suspend / revoke the Licence completely.

I am now considering taking action under the powers outlined above. However, before I do so, I would like to meet with you at the premises so that you can explain what steps you are prepared to take (e.g. voluntarily closing the garden at 9:00pm/9:30pm, restricting numbers in the garden, etc.) in order to avoid the action outline above.

Please email me ([julian.trill@rbkc.gov.uk](mailto:julian.trill@rbkc.gov.uk)) or telephone me (020 7341 5640) as a matter of urgency.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Julian Trill', written over a horizontal line.

**Julian Trill**  
**Bi-borough Area Senior Officer**  
**Noise & Nuisance Team – Environmental Health Department**



London Borough of Hammersmith and Fulham

Bi-borough Noise & Nuisance Team, London Borough of Hammersmith and Fulham  
Council Offices, 37 Pembroke Road, London, W8 6PW



Tel: 020 8753 1084  
Email: [environmentalprotection@lbhf.gov.uk](mailto:environmentalprotection@lbhf.gov.uk)  
Web: [www.lbhf.gov.uk](http://www.lbhf.gov.uk)

The Company Secretary  
Moonshine Bars Limited  
1 Harwood Terrace  
London  
SW6 2AF

When telephoning please ask for:  
**Julian Trill**  
020 7341 5640

Our Ref: 2014/11330/XNEN

Dear Sir/Madam,

**ENVIRONMENTAL PROTECTION ACT 1990 / LICENSING ACT 2003**  
**The Rose, 1 Harwood Terrace, London, SW6 2AF**

**Statutory Noise Nuisance – Noise from patron's voices emitted from the rear garden of the premises**

**NOISE ABATEMENT NOTICE ENCLOSED**

I refer to the above premises and the complaints of noise nuisance caused by patron's voices in the rear garden that have been received.

Following complaints to the Noise and Nuisance Team, officers have visited the complainants' premises and witnessed a statutory noise nuisance on the following occasions:

- 26 April 2014, 21:46 hrs
- 1 May 2014, 21:38 hrs
- 3 July 2014, 21:19 hrs
- 18 July 2014, 21:50 hrs
- 21 July 2014, 22:16 hrs
- 26 July 2014, 20:45 hrs
- 31 July 2014, 21:46 hrs
- 30 August 2014, 20:41 hrs
- 13 September 2014, 20:00 hrs

Having discussed the matter with the affected residents it is clear that the situation has not yet been resolved and that they continue to be disturbed.

Enclosed is a Noise Abatement Notice served under section 80 of the **Environmental Protection Act 1990**. You should read this notice carefully as it is a legal document

Director of Transport and Technical Services  
Nigel Pallace

and requires you, within 42-days from the date of service, to **neither to cause, permit nor otherwise allow the recurrence of the nuisance**

If you breach the Noise Abatement Notice you could be issued with a Fixed Penalty Notice fine (currently £400), or be prosecuted in the Magistrates' Court where the maximum fine is £20,000 per offence.

Furthermore, as a licensed premises you also need to be aware that Environmental Health, or residents, can request that the Licensing Authority holds a Review hearing under the **Licensing Act 2003**. The Review hearing could limit or revoke activities that are presently permissible under the premise licence (i.e. use of the rear garden).

I have previously met with Mr Tom Gill and Mr Robbie Gill at the premises (on 21 August 2014) to discuss the complaints regarding noise levels generated by the use of the rear garden and the statutory nuisances that had been witnessed by officers over the preceding 4 months. During the meeting a number of measures were discussed to address the complaints and to reduce the duration and levels of noise from the use of the garden.

Although I am aware that implementation of some of these measures (e.g. installation of table signage, CCTV and air conditioning) is in progress and that other proposals (additional screening and enclosing of the garden) are being considered, I am of the opinion that a further statutory nuisance is likely to occur due to the current use of the rear garden facilities and the failure to adequately limit the numbers and behaviour of patrons, and the duration of the garden's use.

In order to prevent a further statutory nuisance, I suggest you consider the following measures which may assist you in controlling and reducing the impact of the rear garden on neighbouring properties:

1. Reducing the capacity of the rear garden by removing the number of tables/chairs/umbrellas/heaters available.
2. The rear garden to be closed to patrons and staff by 21:00hrs each day.
3. Prohibiting any vertical drinking in the rear garden, and strictly enforcing a seated consumption of alcohol only policy.
4. Banning all singing, shouting, chanting and/or similar behaviour at ANY time in the rear garden, and consider closing the rear garden after the end of any Chelsea FC home games, or for a limited period (e.g. 2 hours) after the end of any Chelsea FC home games.
5. A member of staff to permanently patrol the rear garden and to strictly enforce conditions 3 and 4.

6. No clearing of glasses or cleaning of the rear garden once it has closed – all cleaning/clearing to take place the following morning.
7. The door to the rear garden to be closed and locked once it has been cleared of all patrons at 21:00hrs.

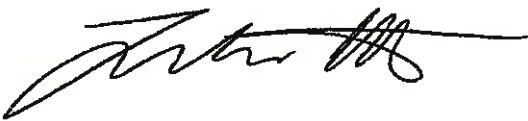
Alternative, similar and/or additional measures will also be available.

Following expiry of the 42-day compliance period, officers from the Noise & Nuisance Team will be responding to any further complaints to determine whether any further nuisance is being caused.

If you feel that this notice has been unjustly served you should seek legal advice and consider appealing the notice to the magistrates' court.

If you wish to discuss this matter or are unclear action must be taken to ensure that that the use of the rear garden does not give rise to a disturbance to neighbours, please contact me on the the number shown above (or the this department on 020 8753 3376 and ask to speak to the Duty EHO, quoting the reference number above).

Yours faithfully,



**Julian Trill**  
**Bi-borough Area Senior Officer**  
**Bi-borough Noise & Nuisance Team – Environmental Health Department**

## Certificate of Service of an Abatement Notice

Officer: **Julian Trill**  
Title: **BI-borough Area Senior Officer**  
Age if under 18: **over 18**

This certificate consisting of 1 page, 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 **4 November 2014**

Signature 

I **Julian Trill**, am an employee of the Royal Borough of Kensington & Chelsea Council and hereby certify that on the 4 November 2014 at 10:35 hours, I delivered **Moonshine Bars Limited of The Rose, 1 Harwood Terrace, London, SW6 2AF, .** with the following **Noise Abatement Notice** marked "**2014/50382/EPAN**".

by delivering the said Notice to him/her:

- ~~(a) In person~~
- (b) To \_\_\_\_\_, a person who accepted the notice on his/her behalf.
- (c) By posting the Notice through the letterbox of **The Rose, 1 Harwood Terrace, London, SW6 2AF, .**
- ~~(d) By pinning the Notice to the door of **The Rose, 1 Harwood Terrace, London, SW6 2AF, .**~~
- ~~(e) By affixing it to the machinery or vehicle in the street~~

Signature 

Dated **4 November 2014**

LONDON BOROUGH OF HAMMERSMITH AND FULHAM  
ENVIRONMENTAL PROTECTION ACT 1990, SECTION 80

ABATEMENT NOTICE IN RESPECT OF STATUTORY NUISANCE

To: **Moonshine Bars Limited**  
**The Rose**  
**1 Harwood Terrace**  
**London**  
**SW6 2AF**

Reference: 2014/50382/EPAN

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990 the COUNCIL OF THE LONDON BOROUGH OF HAMMERSMITH AND FULHAM being satisfied of the likely recurrence of a statutory nuisance under section 79(1)(g) of that Act at the premises known as:

**The Rose, 1 Harwood Terrace, London, SW6 2AF**

within the district of the said Council arising from: **noise from the voices of patrons within the rear garden of the premises**

**HEREBY REQUIRE YOU** as the person responsible for the said nuisance, within **42-days** from the service of this notice, **to neither to cause, permit nor otherwise allow the recurrence of the nuisance.**

**IN** the event of an appeal this notice shall not be suspended until the appeal has been abandoned or decided by the Court, as, in the opinion of the Council, the expenditure which would be incurred by any person in carrying out works in compliance with this notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.

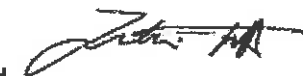
**IF** without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be guilty of an offence under section 80(4) of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding level 5 on the Standard Scale\*\*, together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after conviction. A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to a fine not exceeding £20,000.

If you fail to comply with this notice the Council may abate the nuisance and do whatever is required to achieve compliance. The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance.

**DATE: 4 November 2014**

**Bi-borough Noise & Nuisance Team**  
**London Borough of Hammersmith and Fulham**  
**Council Offices, 37 Pembroke Road**  
**London, W8 6PW**

Signed



**Bi-borough Area Senior Officer**  
**(The officer appointed for this purpose)**

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\*\*Currently £5000, subject to alteration by Order.

The Statutory Nuisance (Appeals) Regulations 1995 provide as follows:

## 2. Appeals under section 80(3) of the ENVIRONMENTAL PROTECTION ACT 1990 ("The 1990 Act")

- (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.
- (2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case:
- (a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
  - (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
  - (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;
  - (d) that the time, or where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
  - (e) where the nuisance to which the notice relates—
    - (i) is a nuisance falling within section 79(1)(a), (d), (e), (f), (fa) or (g) of the 1990 Act and arises on industrial, trade, or business premises, or
    - (ii) is a nuisance falling within section 79(1)(b), of the 1990 Act and the smoke is emitted from a chimney, or
    - (iii) is a nuisance falling within section 79(1)(ga) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes,that the best practicable means were used to prevent, or to counteract the effects of, the nuisance;
  - (f) that, in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act (noise emitted from premises), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of—
    - (i) any notice served under section 60 or 66 of the 1974 Act (control of noise on construction sites and from certain premises), or
    - (ii) any consent given under section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or
    - (iii) any determination made under section 67 of the 1974 Act (noise control of new buildings), or
    - (iv) is a nuisance falling within section 79(1)(b) of the 1990 Act and—
      - (aa) the artificial light is emitted from industrial, trade or business premises, or
      - (bb) the artificial light (not being light to which sub-paragraph (aa) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility (within the meaning given by section 80(8A) of the 1990 Act).
  - (g) that, in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the 1993 Act (loudspeakers in streets or roads);
  - (h) that the abatement notice should have been served on some person instead of the appellant, being—
    - (i) the person responsible for the nuisance, or
    - (ii) the person responsible for the vehicle, machinery or equipment, or
    - (iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
    - (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
  - (i) that the abatement notice might lawfully have been served on some person instead of the appellant being—
    - (i) in the case where the appellant is the owner of the premises, the occupier of the premises, or
    - (ii) in the case where the appellant is the occupier of the premises, the owner of the premises,and that it would have been equitable for it to have been so served;
  - (j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being—
    - (i) a person also responsible for the nuisance, or
    - (ii) a person who is also owner of the premises, or
    - (iii) a person who is also an occupier of the premises, or
    - (iv) a person who is also the person responsible for the vehicle, machinery or equipment,and that it would have been equitable for it to have been so served.
- (3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) Where the grounds upon which an appeal is brought include a ground specified in paragraph (2)(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.
- (5) On the hearing of the appeal the court may:
- (a) quash the abatement notice to which the appeal relates, or
  - (b) vary the abatement notice in favour of the appellant in such manner as it thinks fit, or
  - (c) dismiss the appeal;
- and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.
- (6) Subject to paragraph (7) below, on the hearing of an appeal the court may make such order as it thinks fit—
- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
  - (b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.
- (7) In exercising its powers under paragraph (6) above the court—
- (a) shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and
  - (b) shall be satisfied before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

## 3. Suspension of notices

- (1) Where—
- (a) an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and—
  - (b) either—
    - (i) compliance with the abatement notice would involve any person in expenditure on the carrying out of works before the hearing of the appeal, or
    - (ii) in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant, and
  - (c) either paragraph (2) does not apply, or it does apply but the requirements of paragraph (3) have not been met,
- the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.
- (2) This paragraph applies where—
- (a) the nuisance to which the abatement notice relates—
    - (i) is injurious to health, or
    - (ii) is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or
  - (b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.
- (3) Where paragraph (2) applies the abatement notice—
- (a) shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court, and

**IN WESTMINSTER MAGISTRATES' COURT**

**IN THE MATTER OF AN APPEAL BY WAY OF COMPLAINT**

**AND IN THE MATTER OF** The Noise Abatement Notice dated 4 November 2014 ("The Notice") served by the Respondent in relation to The Rose, 1 Hardwood Terrace, London, SW6 2AF ("The Premises")

**BETWEEN:**

**Moonshine Bars Limited**

**Complainant**

**And**

**London Borough of Hammersmith & Fulham**

**Respondent**

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**CONSENT ORDER**

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**1. Order by Consent**

**1.1 Upon the Complainant having:**

- 1.1.1 installed air conditioning at the Premises;
- 1.1.2 installed CCTV in bar and garden at the Premises;
- 1.1.3 installed fixed, engraved noise notices on each table in the Premises garden;
- 1.1.4 installed self-closers on the rear doors to the Premises garden;
- 1.1.5 implemented a revised Garden Protocol with enhanced supervision of patrons to include using senior staff as garden supervisors at weekends;
- 1.1.6 implemented a training programme for managers and garden supervisors to further increase the level of supervision;
- 1.1.7 considered the installation of double glazing in neighbouring properties where required and if necessary install the same;

**1.2 It is Ordered, by Consent:**

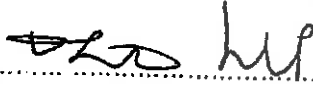
- 1.2.1 that the Appeal of the Complainant be withdrawn;
- 1.2.2 the Notice is quashed; and
- 1.2.3 each side bears their own costs.

Dated this 27th day of January 2015

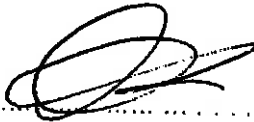
Legal Adviser/Justice of the Peace

J Gray Wood Murray 27 January 2015

We agree to an Order in these terms

.....TLT LLP

Solicitors for and on behalf of Moonshine Bars Limited

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Solicitor for and on behalf of London Borough of Hammersmith & Fulham