

**Karl Collymore
35 Cobden Crescent
Southampton
SO18 4ex**

LR344
Appendix 4
Addendum

**John Myall
Licensing Manager
Winchester City Council**

19 November 2010

Dear John

Please accept the enclosed documentation to be given to yourself, Abigail and the members of the Sub-Committee prior to the review hearing on 22 November 2010.

Kind regards

Karl

FAO Sub-Committee, John Myall, Abigail Toms

I am aware fully aware of the noise issues since May 2009.

I feel that I have worked consistently with Environmental Health, Licensing, Hampshire Constabulary and certain residents residing in Water Lane.

During 2009 the noise complaints did become fewer and fewer but a Noise Abatement Notice was served on 05.10.09.

On 22/10/09 a noise limiter was installed at the premises and set up with the assistance of Environmental Health and Acoustic Specialist Nigel Cogger. Around this same time a heavy duty fire door was installed to the rear of the premises which faces Water Lane.

Between October 2009 and January 2010 I understand that no complaints were made, this demonstrates that our premises are capable of operating in a manner which is not contrary to the licensing objectives.

We have been informed that during May 2010 and September 2010 a total of 25 complaints were received in respect of noise from the garden and music.

I must advise that during this period I have only one record of being made aware of any complaints and that was by way of email received on 02.06.10 from Abigail Toms. This email was responded to on 07.06.10 by myself and Abigail Toms acknowledged this response.

After receiving the email on 02.06.10 I had no further contact with Environmental Health assuming that all was ok.

On 29.07.10, David Ingram from Environmental Health and John Myall from Licensing arrived at the premises at approximately 22.30hrs. On this particular day I was x3 members of staff down following the resignation of the Manager two days previously and x2 members of staff failed to show including the steward employed to manage the garden/smoking area. I was undertaking the role of Manager, garden steward, glass collector and barman on that particular evening and was unable to manage the rear garden. The Officers witnessed a breach of my licence condition and this matter has now been resolved.

Since the visit by Officers on 29.07.10 I have not been made aware of any noise complaints and again assumed that all was ok.

On 06.10.10 I received a letter from Environmental Health advising me of the application made to review my licence on the grounds of public nuisance. I was absolutely astounded to have received this correspondence based on the fact that I had not been made aware of any complaints for some time and assumed that all was ok in respect of noise from the garden and indeed from the premises.

Although I had only been made aware of a limited number of complaints during May 2010 and September 2010 I accept that these complaints were made to Winchester City Council during this time. Had I have been made aware of this I would have acted upon it as I have done so in the past whilst working with Abigail Toms to resolve certain issues.

I believe that the majority of these complaints stem from more people using the garden area in the summer months and staying in there longer than they would normally. I also believe that a lot of these complaints relate to the times when we had live bands playing at the premises, this was on average twice a month during this period of time. I now fully accept that live bands being played at this particular type of venue is not acceptable and I truly appreciate the harm this may have caused some residents who reside in Water Lane.

I can confirm that I no longer have live bands at the premises and do not intend on repeating this unacceptable act.

Since receipt of the correspondence regarding the application to review my licence, I can confirm the following :-

The garden is no longer in use to customers after 21:00hrs every day.

The rear fire door identified as being the main cause of music/sound escaping and being heard from outside of the premises has now been totally soundproofed. The inside of the door now has a 3mm Barrier rubber and a 20mm sheet of MDF attached to it and the outside of the door has exactly the same. In addition to that a batwing acoustic door seal has been fitted around the door frame and to the bottom of the door. The door is now extremely heavy and when closed is sealed tight.

The main cause of sound escaping into the garden area with the door closed was by the single glazed sash window. A double glazed sealed unit has now been installed covering the whole area and it is now clearly evident that sound is no longer escaping from this area.

The dedicated smoking area is located at the front of the building to the left of the front door and limited to a maximum of 15 persons smoking at any one time. The Door Supervisor covering the front door is to ensure that anybody smoking must stand close to the building and keep the pavement clear at all times. Since introducing this we have noticed that we have not reached the maximum number of 15 and therefore find this to be working sufficiently and without causing any inconvenience to members of the public passing the venue.

In conclusion we wish to make known that Mikiki Lounge is aimed at Winchester's popular student clientele only on Mondays through to Thursdays. On a Friday and Saturday the majority of our clientele are young/middle aged couples wishing to have a drink in one of Winchester's modern bars.

Since the decision was taken to remove live bands on Friday nights the bar is a lot quieter despite the fact that the majority of our customers arrive between 23:00hrs and 00:30hrs. On Saturdays the majority of our customers arrive between the hours of 22:00hrs and 00:30.

I have been told on many occasions by customers at the weekend that they only frequent our bar on Friday's or Saturday's to "avoid the students".

The recommended closure times could see the end of our business due to the fact that the majority of our customers arrive later. I am proud to confirm that the majority of our customers especially at the weekends are in actual fact local residents who do not wish to walk to the top end of the Town Centre where it is too busy at times. As the licensee of the premises I have become very friendly with a lot of people living in Winchester who frequent our bar. Myself and staff thoroughly enjoy the friendly atmosphere in the bar and the fact that our bar is very "trouble free" compared to certain other bars in the Town Centre. I can only recall x1 incident involving the police in the last 18 months since I have been Licensee at the premises, this incident took place outside of our bar.

A lot of money has been invested in the bar with the hope of bringing the residents of Winchester to a more relaxing "trouble free" bar. We now employ 11 members of loyal, professional and polite staff who thoroughly enjoy working at the bar, any reduction in the hours they work will certainly see them seeking alternative employment which is very hard to secure in the current financial climate.

Any reduction in hours would make it impossible to meet our substantial financial commitments with the brewery.

Finally, I wish to advise all concerned that we have nothing whatsoever to do with the venue Bar 3one located at the Square in Winchester. We are constantly being unfairly linked to this establishment for no apparent reason.

In respect of the recommendations put forward by Abigail Toms, we seek to propose the following :-

1. We wish to propose that the use of the garden area remain prohibited after 21:00hrs each day.
2. On a **Thursday** evening at **11:30pm** the music will be turned right down to play background music only whilst customers remain on the premises until the bar is closed at 12:00hrs. There will be no audible noise from outside of the building. No DJ will play recorded music after this time.
3. On a **Friday** evening at **12:30am** the music will be turned right down to play background music only whilst customers remain on the premises until the bar is closed at 01:00hrs. There will be no audible noise from outside of the building. No DJ will play recorded music after this time.
4. On a **Saturday** evening at **12:30hrs** the music will be turned right down to play background music only whilst customers remain on the premises until the bar closes at 01:00hrs. There will be no audible noise from outside of the building. No DJ will play recorded music after this time.

We wish to add that should the Sub-Committee, Abigail Toms (Environmental Health) and John Myall (Licensing) agree to our proposals that a meeting takes place no later than 3 months after the review date to clarify whether all proposals implemented have been successful in resolving and Public Nuisance issues raised at the review hearing. We are seeking an opportunity to demonstrate that by working closely with the authorities and our residential neighbours we are able to resolve matters satisfactorily.

Representation from Simon Clay, 10 St John's Street received on 01.11.10

Given the location of the complainant's property in relation to the location of the Mikiki Lounge I am unable to understand how any noise that is heard from outside of the premises could reach as far as 10 St John's Street.

The complainant states that on Thursday nights it is difficult for them to sleep until 2 (sometimes 3). The complaints gives reasons such as people are still hanging around outside of the venue smoking, talking and quite often yelling at each other. I must point out that on Thursday night the venue closes at 12.00 (midnight) and any remaining customers leave the premises and more often than not walk into town to carry on with their evening out.

The complainant is unable to confirm where people walking along St John's Street have come from as he lives in the Town Centre where there is several bars etc.

The majority of this complainant's letter in our opinion appears to be more of a personal attack and an opportunity to attempt to discredit our venue. The comments made do not warrant a response and there is no evidence whatsoever to substantiate these allegations.

Please note that at the very top of the complainant's letter it states "Below is a revised version of the representation sent to you on the 26th October 2010, reworded as advised". The insertion of this sentence does arouse concerns.

Representation from Rachel Sewrad-Thompson, 8 Water Lane, date of receipt unknown but letter dated 19.10.10

The complainant's property is located directly at the rear of the premises.

I have conversed with the complainant on many occasions and have done my utmost to keep the noise generated from customers in the rear garden to a minimum.

The complainant states that around May this year there was a noticeable increase in noise. I believe that this coincides with the warmer nights when most people choose to open a window at nighttime. I suspect that the noise level within the venue and rear garden had not really altered but could actually be heard with a window open. That said I fully appreciate that the complainant should be able to relax within their own property without being disturbed by noise etc outside.

The complainant's noticeable increase in sound from around May this year also coincides with the live bands we had playing at the bar on a regular basis.

It has become apparent that a significant amount of noise from music being played has been coming from the rear fire door located in Water Lane. This weak point was pointed out to me by Environmental Health and we did insert a strip around the door frame thinking this would assist with the noise outbreak. In addition to that we had a noise limiter installed and assumed that this was sufficient also.

Certain works have taken place to reduce noise which will be detailed in a report.

Representation from Mr & Mrs S Bowey, 32 Water Lane received on 27.10.10

Given the location of the complainant's property in relation to the location of the Mikiki Lounge I am unable to understand how any noise that is heard from outside of the premises could reach as far as 32 Water Lane. The complainant's property is a long way from the premises and cannot be seen on the enclosed map of the site.

I am really amazed how any noise can be penetrated through their house as mentioned in their letter. I have personally walked up Water Lane as far as the complainant's property on several occasions and never heard either sounds from the rear garden or music from our building.

The complainant's allegation that patrons are in the garden with glasses after the permitted time is untrue. To the best of my knowledge there has only been two occasions when customers were out after 9.00pm with drinks and that was on 21 May 2009 (our first ever night at the premises) and the other on 29 July 2010 when I was extremely short staffed following the resignation of the Manager and two other members of staff failing to turn up for duty. This meant that I had no steward in the rear garden and had to do this myself along with several other duties, on this particular night we had an inspection from the authorities.

I refute the complainant's allegation that there is so many young drunk people coming out of Mikiki's. There is no evidence whatsoever of this and I take my job as Designated Premises Supervisor/Licensee/Personal Licence Holder and Registered Door Supervisor very seriously indeed. Having managed venues and headed security at other venues I never let persons onto the premises who appear to be intoxicated and the Door Supervisor on duty inside of the premises always looks for customers who may appear to be "in drink".

In respect of the pavements being busy on occasions, this only happens due to me not allowing customers to smoke in Water Lane where there is a significant amount of space. The reason for this is due to me not wanting to disturb my residential neighbours with any additional noise.

Representation from John & Wendy Hunt, 20 Water Lane received on 28.10.10

Given the location of the complainant's property in relation to the location of the Mikiki Lounge I am unable to understand how any noise that is heard from outside of the premises could reach as far as 20 Water Lane.

When I took over the premises some 18 Months ago I spoke with the complainant and advised her that if she had any concerns or complaints regarding the venue to contact me so that we could discuss any issues. We engaged in dialogue for a few weeks but this ceased after the complainant felt that I was failing to act on her complaints in respect of noise from the garden area. For approximately 4 weeks the Manager of the bar at the time and myself walked up to number 20 Water Lane and monitored the sound with a hand held device every Thursday, Friday and Saturday evening approximately 10 times during the evening. During this monitoring period we were unable to establish any "thump, thump" of the music as mentioned in the complainant's letter.

A noise limiter has been installed for several months and has never been tampered with.

In respect of the complainant's comments regarding noise from the garden area, the garden area has been monitored by staff and I can confirm that I have personally sacked X5 members of staff employed as stewards for failing to carry out their duties properly.

Representation from Mr Bill Gunyon, 4 John Street received on 26.10.10

In the 18 months I have been at the premises I have only been made aware of X1 noise complaint from the above property. The complaint related to noise from the garden and I recall the complaint as this was consistent with one incident when I asked two customers to leave the garden area late one evening for taking it upon themselves to shout at the top of their voices for no apparent reason. The complainant wrote to me and I replied to him in writing. No further correspondence was received from the complainant and Environmental Health never made me aware of any further complaints from 4 John Street.

The garden is no longer used after 9.00pm and therefore there will be no sound from the garden. We no longer have any live bands at the premises as we have now discovered that was the cause of a lot of noise nuisance caused to our neighbours.

Since receiving correspondence from Winchester City Council in respect of the review, measures have been taken to reduce noise from the premises.

Representation from Mrs Solomides, 38 Water Lane received on 26.10.10

Given the location of the complainant's property in relation to the location of the Mikiki Lounge I am unable to understand how any noise that is heard from outside of the premises could reach as far as 38 Water Lane. Their property is a long way from the premises and cannot be seen on the enclosed map of the site.

The complainant does not on the face of it appear to be complaining about a noise nuisance.

The complainant comments on parking issues which is not relevant in this review.

The complainant states that they are often disturbed by large groups of drunken people walking along Water Lane on their way home after visiting our premises. The complainant in our opinion is making a very huge assumption that these individuals have been at the Mikiki Lounge. Several members of the public pass our premises daily at all hours of the day and night.

Representation from Nigel Aylwin-Foster, 60 John Street received on 27.10.10

Given the location of the complainant's property in relation to the location of the Mikiki Lounge I am unable to understand how any noise that is heard from outside of the premises could reach as far as 60 John Street.

The complainant raises a very good point in respect of customers queuing to enter the building on a busy night. The queue is on Bridge Street along the narrow pavement, apart from the fact that it has been several months since we had long queues of customers awaiting to enter the premises, I have to advise that I took the decision not to let customers queue in Water Lane which would be the better place purely as not to disturb my residential neighbours who live in Water Lane.

Again the complainant raises another good point in asking why we do not use the side door (nearest Water Lane) as our main door. The reason for this is again in the interests of my residential neighbours.

On the odd occasion when we do have a long queue of customers one of the registered door supervisors on duty undertakes the job of marshalling when it is deemed necessary.

I disagree with the complainant's statement regarding noises which may be heard on nights when we are open from persons on their way home from a night out in Winchester City Centre. The complainant is unable to state that this noise comes from our customers. I am often upstairs in the office late at the weekends after we close and on a regular basis I hear shouting and screaming from individuals passing our building. This in my opinion is an unfair assumption to make.

In the 18 months which I have been the Licensee at the premises I have only been made aware of one noise complaint from a resident in John Street.

**Representation from James Beddington, 43 John Street received on
01.11.10**

Given the location of the complainants property in relation to the location of the Mikiki Lounge I am unable to understand how any noise that is heard from outside of the premises could reach as far as 43 John Street.

The complainant states in their own words that all too often they are woken up in the early hours by people leaving the venue in question walking up John Street. The complainant lives in the Town Centre where there are several late night establishments, how could he possibly determine that everybody walking up John Street are customers leaving our premises.

The complainant mentions that on the rare occasion they walk past the premises they are forced to step around any customers stood in the vicinity of the premises. I myself more often than not control my front door and I am always asking customers to stand close to the building to prevent members of the public having to walk in the road, I have instructed all of my staff to do the same when they are working on the front door.

I am dismayed by the complainant's allegation that they have overheard that the Mikiki Lounge is a venue with a reputation for happily serving minors and serving anyone well past the point of intoxication. As a predominantly student venue during the week our venue is very well known by students in the City as being one of the strictest for not letting people into the venue if they do not have the appropriate identification or if the identification shown does not clearly identify that individual. Furthermore, myself and my Door Supervisors have always been strict on refusing entry to anybody who appears to have consumed too much alcohol. As licensee of the premises I take great offence to this allegation.

Please find attached, copy of last communication with Environmental Health before the application to review licence was received on 06.10.10

RE: Allegation of noise nuisance

From: **atoms@winchester.gov.uk**
Sent: 07 June 2010 10:20:50
To: [REDACTED]
Cc: JMyall@winchester.gov.uk

Dear Karl

Thank you for your detailed reply. I am, as always, appreciative of your commitment to work with this Department and can confirm that have been no complaints for several months.

With respect to noise from music, I am assuming that your noise limiter is still working effectively?

I agree that it is reasonable to expect some noise from people using the garden and neighbours living next door to a public house in the City Centre should expect a reasonable amount of noise. I also acknowledge that it can be hard to persuade customers using the garden to keep quiet and sometimes necessary to ask them to leave after sufficient warning.

If we receive further complaints we will have to carry out further monitoring. In the meantime I would only ask that you continue to be vigilant in noise management.

With kind regards

Abigail

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

From: Karl Collymore [mailto:[REDACTED]]
Sent: 07 June 2010 06:38
To: Abigail Toms
Subject: RE: Allegation of noise nuisance

Dear Abigail,

Thank you for your recent e-mail, apologies for the delay in responding to you.

We have been in communication lately with a couple of the neighbours regarding noise from the venue. We were told that the music and people talking in the garden were too loud and we disagreed with this as in our opinion nothing had changed.

In respect of the complaint on Thursday 27th, the garden was closed at 10.00pm this evening as too many customers wanted to use it for smoking and the corridor leading to the garden became too congested and health and safety was at risk in our opinion.

In respect of the complaint on Friday 28th we did have to ask the DJ to turn down the sound at least twice on this evening, in respect of the garden noise

this was no different to any other evening.

Due to the warm weather and people opening their windows at night they will hear people talking in the garden whether there is 5 people or 15. At times we have at least 10 people smoking outside in Bridge Street as they cannot get into the garden, we always ask them to smoke away from Water Lane just to help satisfy neighbours when in reality the safest place would be for them to congregate in Water Lane.

I have taken on board your kind letter and on Saturday evening just gone we asked 6 girls to leave the venue for laughing too loud in the garden after being asked to keep their voices down by my staff. As you can see from this we are taking this issue seriously and will continue to cooperate with your department, as you can see to the best of my knowledge there has been no complaints for several months.

Kind regards

Karl

Subject: Allegation of noise nuisance
Date: Wed, 2 Jun 2010 10:40:36 +0100
From: atoms@WINCHESTER.GOV.UK
To: [REDACTED]

Dear Karl

Please find attached letter. I would be grateful if you could let me know the current situation as per my letter.

With kind regards

Abigail

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Representation from PC 1526 Gary Miller received on 02.11.10

We note from PC Millers Form For Representation From Hampshire Constabulary that the application relates to 2 of the licensing objectives namely 1. The prevention of crime and disorder and 2. The prevention of public nuisance.

Can we please advise that on all documentation received from **Winchester City Council** confirms that the review of the licence is on the grounds of the licence objective **3. The prevention of public nuisance only.**

PC Miller states that the CCTV system we had installed is not fit for the purpose. The system installed is of very high value and we have a significant amount of cameras which cover public areas adequately within the venue. This also includes the garden area and front door of the premises. PC Miller mentions that evidence has been lost due to ongoing issues with our CCTV. I am not aware of any ongoing issues with the CCTV system we have installed and would request further and better particulars of this. As the Designated Premises Supervisor I have only been made aware of X2 thefts from the venue and X1 reporting of a customer losing a mobile phone.

PC Miller states that a letter was sent to me in June 2010 in respect of advertising what was deemed irresponsible drinks promotions. When I was made aware of this I had all advertising material within the venue removed. I dispute the allegation that I had ignored the request although I do accept that I should have personally checked the Mikiki website to ensure all advertisement had been removed instead of relying on my Manager to do this. Again although the advertisement on the website was months out of date, I fully accept that I am responsible.

In respect of the meeting with PC Miller and Sgt Cator on 14 October 2010, PC Miller mentioned that no acoustic seal was on the rear fire door. The seal which had been previously inserted was in a tatty state and very heavily perished. We advised PC Miller and Sgt Cator that we were in the process of getting the door soundproofed and having a new acoustic seal fitted but wanted the meeting to obtain advice from Hampshire Constabulary and Winchester City Council prior to the review meeting. We were also seeking advice regarding any other matters which the respective authorities deemed necessary.

At the meeting on 14 October 2010 which was requested by me, I asked PC Miller what problems he had with our bar so that we could try and address them. In PC Miller's own words he advised us that he did not have a problem and that the application for review was "Environmental Health's baby and not his". PC Miller did however advise us to contact Environmental Health and set up a meet as we had done with him. We agreed to walk around the premises to ask for their opinion and the points raised related to the rear fire door, the single glazed sash window and the rear door leading to the rear garden. I do not recall either PC Miller or Sgt Cator stating that they were unhappy with the CCTV system we had installed over a year ago.

Given PC Miller's detailed statement on the inadequacy of our CCTV system we would have expected this to have been mentioned when he was asked by us to advise us on everything which he was not happy with at the premises.