



Licensing Act 2003  
Premises Licence - Detail

<b>The House Of Blues</b> 5 Wharf Street Godalming Surrey GU7 1NN	<b>Licence number:</b>	LN/000001808	
	<b>Valid from:</b>	3rd December 2008	
	<b>Valid until:</b>		
	<b>Telephone:</b>	01483 419543	
<b>Licensable Activities Authorised by the Licence and times these activities may be carried on</b>			
<b>Activity (and area if applicable)</b>	<b>Description</b>	<b>Time From:</b>	<b>Time To:</b>
<b>Provision of regulated entertainment:-</b>			
<b>Live Music, Performance of dance, Making music and Facilities for dancing</b>	<b>Sunday - Wednesday Thursday Friday and Saturday</b>	<b>11:00 11:00 11:00</b>	<b>23:00 00:30 02:00</b>
<b>Recorded Music</b>	<b>Thursday Friday and Saturday</b>	<b>12:00 12:00</b>	<b>00:00 02:00</b>
<b>Provision of Late Night Refreshment</b>	<b>Thursday Friday and Saturday</b>	<b>23:00 23:00</b>	<b>00:30 02:00</b>
<b>Sale by Retail of Alcohol</b>	<b>Sunday - Wednesday Thursday Friday and Saturday</b>	<b>11:00 11:00 11:00</b>	<b>23:00 00:30 02:00</b>
<b>Non-standard Timings:</b>	Christmas Eve 11:00-02:00. New Year's Eve - from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day. An additional hour to the standard times when British Summer Time commences.		

The opening hours of the premises:

Opening hours as for the sale of alcohol, closing 30 minutes after the sale of alcohol ceases

Where the licence authorises supplies of alcohol, whether this alcohol is to be consumed on and/ or off the premises:

On and off the premises

Name & (registered) address of holder of premises licence:

Mr Nicholas Edward McCann  
 The House of Blues  
 5 Wharf Street  
 Godalming  
 Surrey  
 GU7 1NN

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

4616817

Name of designated premises supervisor where the premises licence authorises the supply of alcohol:

Mr Nicholas Edward McCann

Whether access to the premises by children is restricted or prohibited:

No restrictions

## Annexe 1 – Mandatory Conditions

### Door Supervisors

Only individuals licensed by the Security Industry Authority may be used at the premises to guard against:

- a. unauthorised access or occupation (e.g. through door supervision), or
- b. outbreaks of disorder,
- c. damage.

### Alcohol

No supply of alcohol may be made under the premises licence:

- At a time when there is no designated premises supervisor in respect of the premises licence.
- At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

## Annexe 2 – Conditions consistent with the operating schedule

Live Music	Monday	11:00 hours to 23:00 hours
	Tuesday	11:00 hours to 23:00 hours
	Wednesday	11:00 hours to 23:00 hours
	Thursday	11:00 hours to 00:30 hours
	Friday	11:00 hours to 02:00 hours
	Saturday	11:00 hours to 02:00 hours
	Sunday	11:00 hours to 23:00 hours

### Further Detail

May be unamplified or amplified.

Music may be via artists singing, karaoke, DJ and other of a similar nature (not adult entertainment).

### Non-Standard Timing

Christmas Eve 11:00-02:00.

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

An additional hour to the standard times when British Summer Time commences.

Location of activity : Indoors

<b>Recorded Music</b>	<b>Monday</b>	-
	<b>Tuesday</b>	-
	<b>Wednesday</b>	-
	<b>Thursday</b>	12:00 hours to 00:00 hours
	<b>Friday</b>	12:00 hours to 02:00 hours
	<b>Saturday</b>	12:00 hours to 02:00 hours
	<b>Sunday</b>	-

Further Detail

The premises shall not be used for this purpose on Good Friday and Sundays.

Non-Standard Timing

N/A

Location of activity : Indoors

<b>Performance of dance</b>	<b>Monday</b>	11:00 hours to 23:00 hours
	<b>Tuesday</b>	11:00 hours to 23:00 hours
	<b>Wednesday</b>	11:00 hours to 23:00 hours
	<b>Thursday</b>	11:00 hours to 00:30 hours
	<b>Friday</b>	11:00 hours to 02:00 hours
	<b>Saturday</b>	11:00 hours to 02:00 hours
	<b>Sunday</b>	11:00 hours to 23:00 hours

Further Detail

Performers/staff may dance as part of their general entertainment (not nude striptease).

Non-Standard Timing

Christmas Eve 11:00-02:00.

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

An additional hour to the standard times when British Summer Time commences.

Location of activity : Indoors

<b>Making music</b>	<b>Monday</b>	11:00 hours to 23:00 hours
	<b>Tuesday</b>	11:00 hours to 23:00 hours
	<b>Wednesday</b>	11:00 hours to 23:00 hours
	<b>Thursday</b>	11:00 hours to 00:30 hours
	<b>Friday</b>	11:00 hours to 02:00 hours
	<b>Saturday</b>	11:00 hours to 02:00 hours
	<b>Sunday</b>	11:00 hours to 23:00 hours

Further Detail

Use of the facilities will be both amplified and unamplified from time to time.

### Non-Standard Timing

Christmas Eve 11:00-02:00.

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

An additional hour to the standard times when British Summer Time commences.

Location of activity : Indoors

<b>Facilities for dancing</b>	<b>Monday</b>	11:00 hours to 23:00 hours
	<b>Tuesday</b>	11:00 hours to 23:00 hours
	<b>Wednesday</b>	11:00 hours to 23:00 hours
	<b>Thursday</b>	11:00 hours to 00:30 hours
	<b>Friday</b>	11:00 hours to 02:00 hours
	<b>Saturday</b>	11:00 hours to 02:00 hours
	<b>Sunday</b>	11:00 hours to 23:00 hours

### Further Detail

Provision of permanent or temporary dance floor.

### Non-Standard Timing

Christmas Eve 11:00-02:00.

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

An additional hour to the standard times when British Summer Time commences.

Location of activity : Indoors

<b>Late Night Refreshment</b>	<b>Monday</b>	-
	<b>Tuesday</b>	-
	<b>Wednesday</b>	-
	<b>Thursday</b>	23:00 hours to 00:30 hours
	<b>Friday</b>	23:00 hours to 02:00 hours
	<b>Saturday</b>	23:00 hours to 02:00 hours
	<b>Sunday</b>	-

### Further Detail

Hot drink or food sold in conjunction with the supply of alcohol if required.

### Non-Standard Timing

Christmas Eve 11:00-02:00.

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

An additional hour to the standard times when British Summer Time commences.

Location of activity : Indoors

<b>Alcohol Sale or Supply</b>	<b>Monday</b>	11:00 hours to 23:00 hours
	<b>Tuesday</b>	11:00 hours to 23:00 hours
	<b>Wednesday</b>	11:00 hours to 23:00 hours
	<b>Thursday</b>	11:00 hours to 00:30 hours
	<b>Friday</b>	11:00 hours to 02:00 hours
	<b>Saturday</b>	11:00 hours to 02:00 hours
	<b>Sunday</b>	11:00 hours to 23:00 hours

Further Detail

N/A

Non-Standard Timing

Christmas Eve 11:00-02:00.

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

An additional hour to the standard times when British Summer Time commences.

Sale of alcohol to be for consumption : On and off the premises

**Designated Premises Supervisor**

**Name:** Mr Nicholas Edward McCann

**Address:** The House of Blues  
5 Wharf Street  
Godalming  
Surrey  
GU7 1NN

**Personal Licence Number (If known):** WAV2005PER/0383

**Issuing Licence authority (If known):** Waverley Borough Council

**Expiry date:** 27/09/2015

<b>Opening Hours</b>	<b>Monday</b>	11:00 hours to 23:30 hours
	<b>Tuesday</b>	11:00 hours to 23:30 hours
	<b>Wednesday</b>	11:00 hours to 23:30 hours
	<b>Thursday</b>	11:00 hours to 01:00 hours
	<b>Friday</b>	11:00 hours to 02:30 hours
	<b>Saturday</b>	11:00 hours to 02:30 hours
	<b>Sunday</b>	11:00 hours to 23:30 hours

Further Detail

N/A

Non-Standard Timing

Christmas Eve 11:00-02:30.

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

An additional hour to the standard times when British Summer Time commences.

## **ELEMENTS OF OPERATING SCHEDULE TO ADDRESS LICENSING OBJECTIVES:**

### **a) General - all four licensing objectives (b,c,d,e)**

The staff shall continue to be trained to the standard required by relevant legislation. All conditions of the licence shall be observed for the additional hours of trading. Staff shall be trained in all aspects of the sale of alcohol and written records kept.

### **b) The prevention of crime and disorder**

Notices shall be displayed at the exit to the premises asking customers to leave quietly. The current level of lighting outside the premises shall continue for the additional hours of trading. Any person who appears to be intoxicated shall not be allowed entry to the premises. The premises shall actively participate in the local Pubwatch or equivalent scheme.

### **c) Public Safety**

The premises shall continue to operate as always in order to promote this objective.

### **d) The prevention of public nuisance**

Notices shall be displayed at the exit to the premises asking customers to leave quietly. The current level of lighting outside the premises shall continue for the additional hours of trading. Reasonable steps shall be taken to recognise the need of local residents and to encourage customers to leave quietly.

### **e) The protection of children from harm**

Any person who appears to be under the age of 21 shall be required to produce proof of age before being allowed entry to the premises, purchasing or consuming alcohol. The premises will operate a Challenge 21 policy and will only accept passport, photo driving license and ID cards bearing the PASS hologram as forms of identification.

## **Embedded Restrictions**

On New Year's Eve, the permitted hours shall extend through from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, to midnight on 31st December).

The licensee may also provide and permit entertainment by way of music and singing but only by the reproduction of recorded sound (this does not permit the use of karaoke, disk jockeys, comperes, etc.).

In relation to the morning on which summer time begins, the permitted hours shall have effect with the substitution of references to 03:00 in the morning for references to 02:00 in the morning.

## **Public Entertainment Embedded Conditions**

This licence is granted by the Licensing Authority subject to the embedded regulations and general conditions for the time being in force (copy attached) made by the Licensing Authority and to the following special conditions:-

1. The number of persons to be admitted shall not exceed: **200** (two hundred).
2. No candles or naked flames are permitted unless previously approved in writing by the Licensing Authority.

3. The licensee shall ensure that any music provided at the premises shall not cause a disturbance to local residents and that any form of amplification shall be so controlled by the licensee as to prevent a disturbance.
4. All external doors and windows shall be kept closed during licensed events and in any case between the hours of 22:00 and 08:00. Doors kept open for fire safety requirements are not affected by this condition. At least one half of the large double doors across the front of the side passageway will remain open when the premises are open.
5. All doors and windows shall be kept closed during licensed events (but fire exit doors shall not be locked).
6. A carbon dioxide fire extinguisher shall be kept on raised stage area.
7. No persons engaged in vetting customers and/or maintaining public order or the security of the premises at exit or entry points (hereinafter referred to as door staff), whether it be permanently or occasionally, shall be employed as door staff until they have been registered with the Security Industry Authority (SIA).
8. The licensee shall ensure that all door staff, whilst employed, wear unexpired identification badges issued by the SIA. Badges shall be worn in a conspicuous position to the front of the upper body.
9. Where the licensee or his employer engages any person at or about the entertainment premises in the capacity of door staff, the licensee shall maintain a log in the form approved by the Council, showing in respect of each period of duty of that person:-
  - a) the name, date of birth and residential address of that person;
  - b) the time at which he/she commenced that period of duty with a signed acknowledgement by that person;
  - c) the time at which he/she finished the period of duty with a signed acknowledgement by that person;
  - d) any times during the period of duty when he/she was not on duty;
  - e) if that person is not an employee of the licensee or his/her employer, the name of the person by whom that person is employed or through whom the services of that person were engaged;
  - f) the log shall be so kept that it can be readily inspected at any reasonable time by an authorised officer of the Council or a Police Officer and, once a log has been completed, it must be retained on the premises for at least 12 months.
10. The licensee shall, as soon as is reasonably practicable, notify Waverley Borough Council and the SIA of any door staff dismissed by the licensee for serious misconduct which might reasonably affect the continuation of, or renewal of, such door staff's registration.
11. A licensee, where requested, shall identify by name those persons employed by him to a Police Officer or other officer authorised by the Council or by statute to make such enquiry.
12. The licensee shall ensure that all door staff are given adequate oral and written instruction and have attended a suitable course of training in vocational skills.
13. The licensee will so far as is practicable ensure that provisionally registered door staff are supervised by qualified staff on a one-to-one basis.

14. A management policy shall be submitted to Waverley Borough Council within one month of the date of this licence to address issues such as age restrictions, drugs policy, reporting of incidents policy, door staff duties, searching policy, membership of Pubwatch, dispersal control and any public nuisance or environmental health factors.
15. Management shall undertake a proactive approach in liaising with police, and the reporting of incidents for their investigation arising from customers at the premises.
16. A minimum of two door staff shall be employed when the licence is effective.
17. A proactive monitoring programme shall be used by staff at the premises in regard to the toilet areas in order to reduce the opportunities for drug and substance misuse and to reduce the risk of crime at the premises.
18. There shall be no admittance or re-admittance to the premises after 00:00 (midnight) during any period when the licence is effective.
19. The license holder shall maintain a comprehensive digital colour CCTV system at the premises that ensures all public areas of the licensed premises are monitored, including all public entry and exit points and the street environment, and which enables frontal identification of every person entering in any light condition. All cameras shall continually record whilst the premises are open to the public and the video recordings shall be available for a minimum of 31 days with the time and date stamping. Recordings shall be made available to an authorised officer or police officer together with facilities for viewing. The recording for the previous two days shall be made available immediately on request. Recordings outside this period shall be made available on 24 hours notice. (Subject to the requirements of the Data Protection Act 1998).
20. A "wind down" period shall start at least 30 minutes prior to the end of permitted hours, or closure of the venue, whichever is the earlier. During this period, entertainment shall stop and music may be played at a lower sound level and at a lower beat per minute than that of the main entertainment to enable customers to prepare to leave. During the "wind down" period, the toilets shall continue to be made available for customers' use.
21. Door staff shall be retained on duty on Thursdays, Fridays and Saturdays from 20:00 until the premises has closed (*amendment agreed with Surrey Police*) and any such later time as may be necessary to monitor the safe dispersal of customers away from the area of the venue.

### **Annexe 3 – Conditions attached after a hearing by the Licensing Authority**

22. See condition 4 above.
23. See condition 18 above.
24. CCTV cameras shall be installed to cover the bar and entrance areas to be in operation by 24th November and operated in accordance with Police requirements.
25. SIA door staff shall be on duty on Thursday, Friday and Saturday from 20:00 hours until close of premises and on New Year's Eve between the hours of 20:00 and 08:00 with no admittance or re-admittance after 00:00 hours.

### **Annexe 4 – Plans**

Attached



**WAVERLEY BOROUGH COUNCIL**

**LICENSING ACT 2003**

NOTICE OF APPLICATION TO REVIEW A PREMISES  
LICENCE

**THE HOUSE OF BLUES, 5 WHARF STREET,**  
**GODALMING GU7 1NN**

NOTICE IS HEREBY GIVEN that an application has been made to the Licensing Authority of WAVERLEY BOROUGH COUNCIL for review of a premises licence under Section 51 of the Licensing Act 2003. Details of the grounds of the application for review of the licence are as follows:

Nicholas Edward McCann is the licence holder and the Designated Premises Supervisor for the House of Blues. He has failed to comply with Condition 3 of his licence and Licensing Objective 3, Prevention of Public Nuisance, nor has he complied with the Noise Abatement Notice served upon him under the Environmental Protection Act 1990. The Review seeks to resolve the long-standing noise nuisance endured by occupants of neighbouring premises.

Any responsible authority or interested party wishing to make representations on this matter must submit those representations in writing to Licensing Section, Waverley Borough Council, Council Offices, The Burys, Godalming, Surrey, GU7 1HR by not later than Tuesday **11th August 2009** stating the grounds on which the representation is made. Written representations may also be made by e-mail to: [licensing@waverley.gov.uk](mailto:licensing@waverley.gov.uk).

Please note that it is an offence under Section 158 of the Licensing Act 2003 knowingly or recklessly to make a false statement in connection with an application for review and any person making such a statement shall be liable, on summary conviction, to a fine not exceeding level five on the standard scale (currently £5,000).



## 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 Gisella De Gennaro

*(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

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> The House of Blues, 5 Wharf Street,	
<b>Post town</b> Godalming, Surrey.	<b>Post code (if known)</b> GU7 1NN

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Mr Nicholas Edward McCann
--

<b>Number of premises licence or club premises certificate (if known)</b> Premises Licence number WAV2005PREM/0238 or LN/000001808
---

#### Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
  - a) a person living in the vicinity of the premises
  - b) a body representing persons living in the vicinity of the premises
  - c) a person involved in business in the vicinity of the premises
  - d) a body representing persons involved in business in the vicinity of the premises
- 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**

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

**Surname**

**First names**

I am 18 years old or over

**Please tick yes**

**Current postal address if different from premises address**

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address (optional)**

**(B) DETAILS OF OTHER APPLICANT**

**Name and address**

**Telephone number (if any)**

**E-mail address (optional)**

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

Name and address  Ms G De Gennaro Environmental Health Section Waverley Borough Council The Burys Godalming Surrey GU7 1HR
Telephone number (if any) 01483 523431
E-mail address (optional) gisella.degennaro@waverley.gov.uk

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

Please tick one or more boxes

- |   |                                     |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input type="checkbox"/>            |
| 2) public safety                        | <input type="checkbox"/>            |
| 3) the prevention of public nuisance    | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/>            |

**Please state the ground(s) for review (please read guidance note 1)**

I am applying for a review of the Premises Licence held by Mr Nicholas Edward McCann. Mr McCann has been the Designated Premises Supervisor and licence holder of The House of Blues at 5 Wharf Street, Godalming, Surrey since 1st November 2003. Enterprise Inns PLC owns the premises.

The Licence permits Recorded Music on Thursdays from midday until midnight and Fridays and Saturdays from midday until 2am. The Premises closes to the public half an hour after these times.

The licence is granted by the Licensing Authority subject to the embedded regulations and general conditions. Condition number 3 states that "The licensee shall ensure that any music provided at the premises shall not cause a disturbance to local residents and that any form of amplification shall be so controlled by the licensee as to prevent a disturbance".

Since July 2007, the Environmental Health Section has received complaints regarding loud amplified music from 9 local residents and another interested party. The residents claim the volume of the music keeps them awake at night for up to 3 nights per week up until 2am. A noise abatement notice was served upon Mr McCann in October 2007. Mr McCann has also received letters, calls and visits warning of the consequences of disturbing the neighbourhood with the volume of the music; however, complaints are still being received on a regular basis. Two officers witnessed a third breach of the notice in the early hours of Sunday 3rd May 2009.

Waverley Borough Council seeks to review the Premises Licence for the House of Blues to resolve the long-standing noise nuisance endured by the occupants of

neighbouring premises. Mr McCann has failed to comply with Licensing Objective number 3, the Prevention of Public Nuisance as well as the Noise Abatement Notice served upon him under the Environmental Protection Act 1990.

A resolution to the noise problems would be the removal of those parts of the licence that allow Recorded Music, Live Music, Making Music, Performance of Dance and Facilities for dancing.

In addition to this, the removal of Mr McCann as the Designated Premises Supervisor is sought because he has failed to manage the premises sufficiently to prevent disturbance to his neighbours from loud amplified music. This has prevented sleep and spoilt the quiet enjoyment of the complainant's homes for a protracted period of time. This has resulted in an elderly resident moving away and 4 residents regularly staying away from their properties in order to sleep.

**Please provide as much information as possible to support the application**  
(please read guidance note 2)

The House of Blues is situated in the town centre of Godalming where several premises hold late night music licences. The House of Blues has consistently come to the attention of Environmental Health Officers over and above all other license holders in the town for loud amplified music disturbing neighbouring properties.

Complaints began in July 2007 in the form of telephone calls to the office and to the Out of Hours Service complaining of very loud music preventing sleep. A letter was sent to Mr McCann advising him of the complaint and that an investigation would begin. He was advised that if a Statutory Nuisance was witnessed, he would be served a Noise Abatement Notice and a breach of the Notice may lead to a fine of up to £20,000 if prosecuted. Mr McCann responded to this letter with a telephone call to the case officer.

In September 2007, the complaints continued and noise monitoring equipment was installed into a complainant's premises. An Out of Hours call was received at 23:09 on 21st September. Officers visited and witnessed a Statutory Nuisance when they arrived in the early hours of 22nd September between 01:35 and 02:00. The noise monitoring equipment corroborated the subjective opinion of the officers that the sound levels were unacceptable.

October 6th 2007 brought another complainant who had just moved into a flat near the House of Blues. He called to say the music started around 22:30 and went on until 2am. He could hear the lyrics of the songs and the words of the DJ. His partner and he were prevented from sleeping. Further complaints were received on 11th, 20th and 21st of October.

A Noise Abatement Notice was served on 23rd October 2007. Further complaints were received on 27th and 28th October.

November 2007 brought complaints on 3rd and 10th, followed by 2nd, 20th and 21st December.

A letter to Mr McCann was sent advising that we had not received notification that the Notice had been appealed so it still stood. It explained that complaints were still being received and asked him to contact the office. Mr McCann had previously expressed a wish to install sound insulation but had not yet informed us of the details.

January 2008 brought an email from a complainant stating that the sound levels on Friday and Saturday nights were still so bad that he was forced to stay away from his home in order to sleep. Another complainant also contacted the Out of Hours service as he had been unable to sleep.

Three Out of Hours calls were received in February and 3 in March 2008 although when the matter was discussed with the complainants, they said that the music was still most weekends but they don't always call as we are not available to visit before the summer and it is only to log the complaint. They stated it is the heavy bass that disturbed them and they could hear the words to the songs. One complainant's partner was seriously ill and the noise affected her greatly. Easter weekend was particularly bad. When Mr McCann was questioned about this, he claimed it was another establishment causing the disturbance (further away from the complainants) and that he had completed the sound insulation.

Mr McCann was visited on 3rd April 2008 to discuss matters pertaining to Smoke

Free issues. Mr McCann's solicitor was present (Mr Nick Williams) and also Emily Travers who managed the bar. They were advised that noise complaints were still being received and it was suggested he seek advice from a noise consultant. Mr McCann admitted there was no noise limiter to aid the management of noise and the flues and windows may need attention if further insulation were to be considered. In addition, the doors and windows should be kept closed when amplified music is being played. Mr McCann said he had taken advise from a friend. The officer warned that if a breach of the Notice were to be witnessed, the Council would have no option other than to take legal proceedings. The officer followed up this advice in writing on 29th April and copied in Mr McCann's solicitor.

Further complaints were received through April citing most weekends as a problem including a live band on the 3rd. There were disturbances on Fridays, Saturdays and Sundays.

On 1st May 2008, Licensing Enforcement Officers informed Environmental Health that they had spoken to Mr McCann about an advertised event that was outside the permitted hours on the licence.

2nd May 2008, Mr McCann called and advised that he had finished installing sound insulation which had lowered the sound by 20dB. He was due to have a DJ this weekend after a break and was keen to resolve the issue.

A visit to a complainant that night resulted in the music only just being audible and he was pleased with this sound level. He said the past few weeks had been very bad and they had been sleeping in the hall to get away from the noise. He commented that the bass made the windows rattle. He said he knew he lived in the town and expected some noise but it had been unbearable. A week later the complainant said the music levels were up slightly but still acceptable.

Complainants were contacted and advised that the problem seemed to be resolved. One said he would try staying at home at the weekends now. A letter was sent to Mr McCann advising that "due to the nature and longevity of the complaint, monitoring will continue from time to time to ensure compliance with the Noise Abatement Notice served on 23rd October 2007".

On 23rd May 2008, 23:45, we received an Out of Hours call re excessively loud music coming from the House of Blues.

On 7th June 2008, an email from a complainant stated that the music on Fridays and Saturdays for the past 4 weeks had been the worst it had ever been. The bass "seemed louder and deeper" and he could hear the DJ warming up the crowd. He said he had tried to hold off contacting Environmental Health as he thought it may improve. He was now sleeping in the hallway again and his partner had gone to stay elsewhere.

On 11th June 2008, Mr McCann called to see if there had been any complaints. The case officer was out but Mr McCann said he didn't want a call back.

On 13th June 2008, a complainant reported that Thursdays were bad at the moment.

The 20th June 2008 was reported as bad by 2 complainants.

On 4th July 2008, an officer delivered a letter by hand to the House of Blues stating that as we were once again receiving complaints of loud amplified music, we would be monitoring the situation for another 3 months which may include visits and/or use of monitoring equipment. The letter also stated that Mr McCann could face a fine of



up to £20,000 if convicted. The Licensing section were copied into the correspondence and letters were written to the complainants. A complaint was subsequently received about that night's music levels.

On 13th July 2008, an Out of Hours call was received at 02:07 saying there was loud amplified music and it was past the 2am deadline. An officer telephoned the complainant who said the music went off at 02.13hrs. He said that Friday night was 'fantastic' they had music but not a problem level. Saturday it got louder and louder - his girlfriend had gone to bed and was woken up 00.30hrs he then drove her to her parent's house in Petersfield as she had enough and wanted to sleep. He got back about 01.45hrs and hoped it would stop - when it didn't he called the Out of Hours service. He was reminded to call earlier so officers could witness the noise.

The night of 25th July brought a new complainant to the Council's attention. An elderly person had moved into the new flats above the Cook shop which were even closer to the House of Blues than the first 3 complainants. Although partially deaf, this person was greatly disturbed by the music until the early hours.

On August 4th 2008, an officer telephoned Mr McCann to discuss the dates complained of in June and July. This was to enable him to identify which DJs may have been playing on the nights of the complaints so he could address the problem. Mr McCann said he would "keep an eye on it".

An officer received a call from a 5th complainant on 15th August. They said the music disturbed them on Thursdays, Fridays and Saturdays. An email was received by a 6th complainant the same day.

On 16th August 2008, an Out of Hours call was received. Officers visited the site but didn't enter the complainant's residence upon their request. Loud bass music was heard at around 23:45.

On 30th August 2008. an Out of Hours call resulted in 2 officers visiting and assessing the volume. They could hear the words to the songs being played over the complainant's TV and their conversation. The complainant said they had changed the bedroom to the living room to get away from the noise but it still disturbed them and it was like this every week. After 30 minutes of assessment, the officers both came to the decision that the music was a statutory nuisance. They then walked past the House of Blues and noticed one of the windows was open which contravened the Licensing Conditions.

On 1st September 2008, the complainant that the officers had visited came into the Council officers to say that the music was "ruining her life".

The case officer met with the Council's legal department, police and licensing officers. A letter was sent to Mr McCann on 4th September advising of the breach of Notice and that the case was being passed to the legal department for consideration for further action.

Letters and witness statement forms were sent to the complainants

On 6th September 2008, Out of Hours calls were received from 3 different complainants. Officers visited one of them at 00:15 on 7th September (This was the 3rd separate residence for the noise to be witnessed from and they were different officers to the week before). The complainant said the music has been bad on Thursdays, Fridays and Saturdays. The officers could hear the bass and the melody of the music over the TV and with the windows shut. The songs could be identified easily. The officers were satisfied that the volume of the music was a statutory

nuisance and a breach of the Notice served in October 2007 because of the volume and clarity of the tracks and agreed that it would be very difficult for someone to sleep in the bedroom. One of the officers used a Type 1 Sound level meter which had been calibrated earlier that night to measure the noise. The World Health Organisation studies suggest that a level greater than 30dBa in a bedroom at night could disturb sleep. The average reading over a 5 minute period with the window slightly open for ventilation measured 44.7dBa. When the officers left the complainant's property and walked past the House of Blues, they noticed a window once again being left open.

On 22nd September 2008, a letter received from Mr McCann was received challenging the letter to him with regard to the breach of Notice and asking his own questions.

On 25th September 2008, Environmental Health responded to his questions. An Out of Hours call received later that night at 23:57.

On 28th October 2008, we wrote to Mr McCann with regard to the 2nd breach of the Notice and to comment on his application to vary his licence to allow later re-admittance. He was asked to respond as to how he would prevent a nuisance in light of the latest breach. No response was received.

Witness statements were received from the officers on duty on the 30th August and 7th September and several of the complainants in September and October.

On 11th November 2008, a more formal letter was sent to Mr McCann regarding the 2nd breach of the Notice, which was witnessed on the weekend of 6th and 7th September 2008 and the complaints still being received. Further action by the Council was also mentioned.

On 26th November. A new complainant reported loss of sleep due to loud amplified music from the House of Blues.

On 20th December 2008 at 23:29, we received a complaint of loud amplified music from the House of Blues.

On 21st February 2009 at 01.06, a complaint was received regarding loud amplified music from the House of Blues.

On 24th February 2009, a complainant called to say music has been bad for last 2 Saturdays but phone at the Out of Hours centre out of order so couldn't call us.

On 7th March 2009, a joint visit was made by two officers from Environmental Health to a complainant's property from 00.30 to 01.30. The volume of music from the House of Blues was audible when the windows were shut and varied from being borderline nuisance to a definite nuisance if the windows were opened for ventilation.

On 11th March 2009, a letter was sent to Mr McCann advising of the visit and that it was a nuisance if the windows were open for ventilation.

On 21st March 2009 at 23:30, an Out of Hours call regarding loud amplified music from the House of Blues was received.

Out of Hours calls were received on 12th, 14th and 19th April 2009 regarding loud amplified music from the House of Blues. A complainant also alleged that the music was playing on a Sunday afternoon from 1pm and that it disturbed them.

On 3rd May 2009, at 00.35, a site visit was carried out by 2 officers from Environmental Health to a nearby resident. The music from the House of Blues could be heard very clearly from all the rooms. The walls seemed to be vibrating with the sound. Officers could identify the songs and hear the words inside the residence. The bass beat was very heavy and was considered too loud to sleep through even with windows closed. This was considered to be a breach of the noise abatement notice without doubt due to the volume and time of day.

On 8th May 2009 at 23.57, an Out of Hours call regarding loud amplified music from the House of Blues.

On 26th May 2009, a letter was sent to Mr McCann advising of a 3rd breach of the noise abatement notice and that a review of the premises licence and prosecution were being considered.

On 7th June 2009, 2 Out of Hours officers reported very loud music coming from House of Blues. The complainant also called a few days later to confirm this. No call made on the night as complainant unable to call in.

On 10th June 2009, one of the complainants called to say that the music had been bad a couple of weeks ago but he was so tired he just got in the car and drove to a relative to get away from the noise.

On 27th June 2009, a call was made to the Out of Hours team regarding loud amplified music from the House of Blues.

On 5<sup>th</sup> July 2009, a call was received by the Out of Hours team saying that the Charity Event being held at the House of Blues was the loudest they had heard in several weeks and was unbearable.

In summary there have been:-

- 10 different complainants over a 2 year period complaining of music up to 3 nights per week from 22:30 until 2am. Totalling in excess of 50 complaints, though some of these were about multiple events.
- The Council have contacted Mr McCann 14 times by way of letters, telephone calls and personal visits with regard to the music.
- A Noise Abatement Notice has been served.
- A Breach of the Notice has been witnessed 3 times from 3 different addresses, by 6 different officers.
- The Designated Premises Supervisor has failed to adequately manage the premises and should be removed (Statutory Guidance paragraph 11.19).
- The premises is unsuitable for uncontrolled, late-night music and dance and these activities should be excluded (Statutory Guidance paragraph 11.17).

**Please tick yes**

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

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--

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

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 3)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date

.....

Capacity

.....

**Contact name (where not previously given) and postal address for correspondence associated with this application** (please read guidance note 5)

--	--

<b>Post town</b>	<b>Post Code</b>
------------------	------------------

<b>Telephone number (if any)</b>
----------------------------------

<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>
---

**Notes for Guidance**

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.



Tel: 01372 371686  
 Fax: 01372 371704  
 Email: [steve.playle@surreycc.gov.uk](mailto:steve.playle@surreycc.gov.uk)  
 General Enquiries: 01372 371700  
[www.surreycc.gov.uk/tradingstandards](http://www.surreycc.gov.uk/tradingstandards)

RECEIVED

21 JUL 2009



**SURREY**  
 COUNTY COUNCIL

TRADING STANDARDS  
 Mid Surrey Area Office  
 Bay Tree Avenue  
 Kingston Road  
 Leatherhead  
 Surrey  
 KT22 7SY

Rosemary Hughes  
 Licensing Manager  
 Waverley Borough Council  
 The Burys  
 Godalming, Surrey  
 GU7 1HR

21<sup>st</sup> July 2009

Dear Mrs Hughes,

**Re: House of Blues, Godalming**

I write in relation to the above premises and the licence review that has been initiated by Environmental Health.

This Department, along with Surrey Police, has recently conducted a test-purchasing exercise on this premise on the 15<sup>th</sup> May 2009, which resulted in a sale of alcohol to two female volunteers aged 15 & 16 years. As a result of this incident, a Fixed Penalty Notice of £80 was issued to Laura Weston, the employee who made the sale.

I wish to inform the committee hearing this review that the test purchase was attempted after receiving intelligence from Surrey Police alleging the premises had been selling alcohol to under 18's. This Service acted upon this information and arranged with Surrey Police to test purchase at the earliest opportunity. Due to the manpower required for an on-licence test purchase operation it took some weeks to get everybody who needed to be involved together. This was a concern as Police intelligence was still coming in of under age alcohol sales and more specifically to under age females. The information from Surrey Police indicated that the premises had been seen to have a soft approach to checking young females for ID. It is suggested that a premise of this type would be more attractive to potential customers if it appeared to be busy and would appeal to young males even more should there be a large female contingent already inside.

The circumstances of the test purchase were as follows. At approximately 22.20 hours on 15<sup>th</sup> May 2009, Trading Standards Officer Robert Towers sent two young female volunteers, aged 15 and 16, to the House of Blues to try and gain entry to the premise and, if successful, they were then authorised to attempt to buy alcohol. There were two male door staff on duty and the volunteers would have to walk past them to gain entry into the premise. At this point Mr Towers knew, according to Police intelligence, that if they went unchallenged they would be successful at purchasing alcohol inside the House of Blues. The two male door staff made no approach to interrogate our volunteers about their age or ask for ID, they simply said "Good Evening" and opened the door for them. At this point, two plain clothed police officers were already positioned inside the premise in anticipation for this scenario and were there to act as witnesses for the sale. The bar was not busy and there were at least three members of staff behind the bar at this point. A female member of staff asked the volunteers what they would like to drink. The volunteers at first struggled with what was being said to them because the music at the premise was very loud but they did eventually manage to order two alcoholic drinks that were a WKD original Vodka Blue and Beck's Beer. When Mr Towers re-entered the premise to speak to the management, he struggled to



communicate clearly and had to resort to shouting in order to be heard. Mr Towers did go to the upstairs accommodation to talk to the management and the seller but, even then, the floor of the upstairs flat was noticeably vibrating.

This operation successfully identified that the intelligence was correct and that the House of Blues were not complying with Section 146 of the Licensing Act 2003. The seller advised Mr Towers that she had received some training on her roles and responsibilities under the Licensing Act but gave the impression that the door staff were the ones that check for ID. This was supported by the fact that the Designated Premises Supervisor, who is the owner of the premise, was not happy that the doormen had not done their job. Mr Towers mentioned that it was not their responsibility under the Licensing Act as they are not the people responsible for the sale of the alcohol.

It appeared to Mr Towers after this conversation and a subsequent police investigation that even though there was some evidence of a system being in place to prevent illegal alcohol sales, they were not being managed correctly and the DPS is ultimately responsible for that.

Should the application for a licence review by Waverley Environmental Health be successful, Surrey County Council Trading Standards Service would like the committee to consider the following:

- It is the opinion of this Service, as a responsible authority, that Mr Nicholas Edward McCann who is the current DPS of this premise should be removed and a new DPS appointed. The current management do not seem to be taking the roles and responsibilities seriously enough and therefore a change of DPS would reduce the chances of any further under age sales taking place. This Service would also like to recommend re-training of all current members of staff and it is our recommendation that an external company conduct this training since current procedures appear to be ineffective.
- Should the committee decide to accept our recommendations, this Service feels that a suspension of the premises licence should be considered whilst a change of DPS is found and all staff undertake comprehensive re-training.

I hope this information assists the licence review process. If I can be of any further assistance then please do not hesitate to contact me.

Yours sincerely,



Steve Playle

Trading Standards Safer and Stronger Communities Team Manager



Our Ref: 10378 WVC  
Your Ref:

The Licensing Department  
Waverley Borough Council  
Council Offices  
The Burys  
Godalming  
Surrey  
GU7 1HR

<b>WAVERLEY B.C.</b> CHIEF EXECUTIVE'S OFFICE	
PRM	
DATE	06 AUG 2009 REC'D
DATE ACK:	
PASS TO FOR ATTN:	
ACK. CODE	
FILE No:	



■ SURREY ■  
**POLICE**

Sgt 435 Eldridge  
Waverley

28<sup>th</sup> July 2009

Dear Sir/ Madam,

I write in response to the application for review of the Premises Licence of The House of Blues, Wharf Street, Godalming submitted by the Environmental Health Department of Waverley Borough Council.

Surrey Police would like to make the following representation in support of the application.

They relate to the following licensing objectives:

- The prevention of Crime and Disorder
- Public Safety
- The protection of children from harm

The Premises Licence Holder and Designated Premises Supervisor for the premises is Mr. Nicholas McCann.

The House of Blues previously had a number of conditions attached to the Premises Licence, including the following:

- The number of persons to be admitted shall not exceed 150.
- There shall be no admittance or re-admittance to the premises after 11:00pm

At 2300 on 26<sup>th</sup> September 2008 Police visited the premises and found people still queuing to enter the premises. They re visited approx 30 minutes later and established from door staff that there were 168 customers inside.

At 23:10 on 10<sup>th</sup> October 2008 police visited the premises and established from door staff that the premises was approximately 100 persons over capacity.

At 22:00 on 11<sup>th</sup> October 2008 police visited the premises as a result of concerns regarding the capacity and persons entering after 23:00. Officers were concerned regarding fire exits and safety so requested Surrey Fire and Rescue to attend, which they did. Officers returned again at 00:45 and established that there were approx 260 customers inside the premises.

On 13<sup>th</sup> October 2008 Mr McCann was spoken to by the police licensing officer. He was advised regarding the conditions of his premises licence. He was advised that police would proactively be seeking evidence with a view to prosecuting for any further breaches of the licence and would consider an application for review of his premises licence.

On 12<sup>th</sup> November 2008 Mr McCann submitted an application to vary the premises licence to increase the capacity to 200 and have a no entry or re-entry time of 00:00 (midnight) After negotiations with police, amendments were made and conditions agreed.

The new Premises Licence was issued on 3<sup>rd</sup> December 2008

The House of Blues now has a number of conditions attached to the Premises Licence, including the following:

- There shall be no admittance or re-admittance to the premises after 00:00 (midnight) during any period when the licence is effective.
- At least one half of the large double doors across the front of the side passageway will remain open when the premises are open.

Police have evidence that on a number of occasions these conditions have been breached.

The double doors have been seen by police to be closed at the following times:

11<sup>th</sup> January 2009 01:00  
 6<sup>th</sup> February 2009 21:30  
 6<sup>th</sup> February 2009 22:15  
 7<sup>th</sup> February 2009 21:30

We have evidence that on 31<sup>st</sup> December 2008 a number of customers were allowed entry after 00:00. This has been captured on the town CCTV system and is available for viewing by the Licensing Committee.

On 2<sup>nd</sup> March 2009 police visited the premises and spoke with Mr McCann regarding the above breaches. He was served a warning letter. He was also given advice regarding staff training.

We have historically had problems obtaining footage of CCTV evidence from Mr McCann when investigating crimes at the premises. An assault took place at the premises on 5<sup>th</sup> May 2007 and when investigating officers tried to obtain CCTV footage they were told that the system was defective.

A further assault took place at the premises on 7<sup>th</sup> June 2008. From an initial request from Mr McCann it took eight days to obtain the footage.

Mr McCann was later spoken to and given advice by the Police licensing officer regarding the issues.

At the time of the Variation of the Premises Licence a revised condition regarding CCTV was agreed and incorporated into the licence. To date we have not had any further problems with CCTV.

On 15<sup>th</sup> May 2009, acting on intelligence, Police and Trading Standards officers carried out a test purchase operation at the premises. During the operation a female member of bar staff sold alcohol to two 15 year old female volunteers.

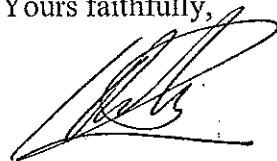
Police issued an £80 fixed penalty notice to the member of staff.

The Premises Licence Holder and Designated Premises Supervisor, Mr Nicholas McCann, was subsequently interviewed and as a result no further police action was taken against him.

He was however given further advice regarding his staff training which was not considered adequate.

Surrey Police are aware of the representations made by our partner agencies in respect of this review hearing. We fully support our colleagues recommendations in respect to the removal of Mr Mc Cann as Designated Premises Supervisor, the removal of late night music and dance, the retraining of staff by an external company. However it should be noted that Mr Mc Cann is the leaseholder of the premises. If he is removed as the Designated Premises Supervisor he will need to appoint a new Designated Premises Supervisor in order to continue to trade. It is likely that Mr Mc Cann will remain within the business in a managerial position with the ability to influence the new Designated Premises Supervisor and the day to day running of the premises. We therefore recommend consideration be given to the revocation of the premises licence.

Yours faithfully,



Sgt 435 Eldridge



With compliments

Dear Mrs. Hughes

Further to our telephone discussion last week, I am writing to you to outline the issues I have had with noise pollution from The House of Blues public house in Bridge Street, Godalming.

I completed my purchase of [REDACTED], Godalming on Friday 20<sup>th</sup> July 2007 and moved in on Monday 23<sup>rd</sup> July 2007. At the time I would spend approximately half of all nights staying in the flat and the other half staying with my partner in Send. On those occasions that I stayed at my flat at the weekend I experienced what I would describe as significant noise pollution from a public house behind my flat, namely 'The House of Blues'. I know that it is this public house that causes the noise as I have on several occasions gone out on to my fire escape and out into the street to confirm that this is the case. The back of 'The House of Blues' is adjacent to the back of my flat, [REDACTED].

The noise is caused primarily by music being played at what I would consider to be an unacceptably loud volume until 2am on every Friday and Saturday night that I have stayed in the flat. The music is so loud that I can clearly recognise what song is being played and hear the lyrics. The bass reverberates around my flat and it is impossible for me to sleep before it stops. There is additional noise caused by customers at the public house shouting throughout the night. In addition to weekends there have also been other nights when the music has been unacceptably loud at unreasonable times, for example on the night of Sunday 26<sup>th</sup> August 2007 when the music continued until well after 1am and Thursday 11<sup>th</sup> October 2007 when there was live music at the venue until 12:15am. This latter case was particularly inconsiderate as I, like most people, have to get up for work on Friday mornings.

My partner has been recovering from surgery to remove a brain tumour and so requires a lot of rest. This has meant that she is unable to stay in my flat at the weekend because she cannot sleep when she needs to. This has meant

that I often spend weekends at her house, but this has often caused us some inconvenience and I do not accept that because I can stay there, it is therefore somehow reasonable for The House of Blues to cause this nuisance. Often it would be preferable, for a number of reasons, for my partner and me to stay at my flat at the weekend, but we are unable to do so.

I cannot recall where I stayed every single weekend, but I can state with certainty that I stayed at my flat on Saturday 11<sup>th</sup> August, Saturday 1<sup>st</sup> September and Saturday 6<sup>th</sup> October 2007 and on the evenings of 20<sup>th</sup> June and 4<sup>th</sup> July 2008 and there was unacceptable noise on each of these occasions until 2am. I have stayed in my flat on other Friday and Saturday nights as well, but these are the nights that I can evidence based on my diary. Staff from Waverley Borough Council have visited me on at least two occasions at night to verify that the noise is at an unacceptable level and we have also installed a noise-measuring device. Gisella de Gennaro will be able to confirm the details of these visits.

Since moving in I have rarely been able to stay at home on a Friday or Saturday night because of the noise and I feel I have therefore been driven out of my flat at the weekends. I accept that by choosing to live on a main street in a town, there will be noise at the weekend. However, I consider the level of noise caused by 'The House of Blues' to be completely unreasonable. The effect on me is that I am often not able to stay in my home at the weekend and on those occasions that I do stay there I am unable to sleep, which clearly affects my quality of life.

I have indicated in the past that I would wish to be involved in any proceedings against the licensee at The House of Blues, including court proceedings, in order to have this matter addressed and resolved. This continues to be the case so if I can be of any further assistance then please do not hesitate to contact me.

7th August 2009

Complaint against: The House of Blues, 5 Wharf Street, Godalming GU7 1NN.

Grounds for complaint: Prevention of Public Nuisance and prevention of Crime and Disorder.

I am writing to complain about the continuing noise and disorder problem that I am experiencing from 'The House of Blues'.

Since I moved into my flat in October 2007, I have not experienced a Friday or Saturday night when I haven't been kept awake by the excessively loud music coming from this establishment. It starts at approximately 10pm and goes on until closing time at 2am making it impossible to fall asleep until after this hour. I then have to endure for a further 30 minutes the constant sound of drunken yobs leaving the bar, fighting, arguing, throwing bottles, shouting abuse, knocking over the wheelie bins, banging on my front door and on two occasions breaking the door open requiring the lock to be replaced, and I have even had stones thrown at my second floor flat window. Most Saturday/Sunday mornings I spend 15 minutes clearing up the mess of broken glass, rubbish and vomit that's been left on and around my door step area. I have on many occasions over the past year been outside on street level at 2am observing the crowds leaving the House of Blues, the statements I make earlier in this paragraph are based on what I have witnessed first hand and from what I have seen from my flat window and from external fire escape areas.

The music at the House of Blues is played at such a level that trying to watch television or entertain friends on a Friday or Saturday evening is ruined by the constant droning of repetitive drum and bass beats that is played so loud that the window frames of my flat vibrate. Disco and pop music is played at such a volume that the lyrics are easily distinguishable and then you have the DJ or MC's voice on top of that which clearly can be heard rousing the crowd. It is impossible to enjoy a quiet night in on a Friday or Saturday night with this intrusion into my privacy. I am ashamed to ask friends or family round because of the embarrassment of having to explain away the situation I find myself having to endure.

My bedroom and lounge back onto the House of Blues. The only way I can try and sleep before 2am on a Friday/Saturday night is to sleep in a sleeping bag in the hallway of my flat with all doors and windows closed in an attempt to reduce the noise levels but the music is so loud and penetrating most weekends that it's just impossible to get the sound out of my head or to block out the vibration that you can feel through the walls of my flat. Most Saturday and Sunday mornings I wake up with headaches with the bass still ringing in my ears. In the Summer months when the evenings are warm it is impossible to open windows because of the even greater disturbance it causes. The only time I can escape the noise and have a peaceful sleep is when I stay at my parents home for the weekend but I resent the fact I have to resort to these measures and feel I am being forced out of my home but at present I do not have a choice. The only restful nights sleep I get over a weekend in my flat is on a Sunday night.

I have suffered The House of Blues for nearly 2 years now and have finally reached desperate measures. I am considering moving home if The House of Blues is allowed to continue playing music between the hours of 10pm until 2am because I can no longer stand having my weekends ruined and my work and health suffering because of lack of sleep. In the 22 months years I have been complaining Nicholas McCann has shown no remorse, made no effort to reduce the volume and even now with this notice of a licence review he still continues to allow music to be played at the same intrusive level showing no thought for residents who live close and this has been his attitude all along. He does not deserve to hold a licence.

7th August 2009

Complaint against: The House of Blues, 5 Wharf Street, Godalming GU7 1NN.

Grounds for complaint: Prevention of Public Nuisance.

I am writing to complain about the continuing noise and disorder problem that I am experiencing from 'The House of Blues'.

When I moved in to my flat in October 2007 I was so excited about owning my first home. It was on a Friday I moved in, had a lovely quiet evening then at 10pm it all changed! Until 2am the whole experience was ruined by the excessively loud music coming from the House of Blues. I cried my eyes out. I could not believe how loud the music was or that an establishment could be allowed to play music so loud until the early hours in an area that had so many residential properties in such close proximity. My flat is behind the House of Blues, both my lounge and bedroom are close to the main room where the music is played. I am hard of hearing but even I cannot escape the noise. The volume is so loud that the window frames in my flat vibrate.

Friday and Saturday nights since are sleepless until after the music stops at 2am. There is also the general disturbance from the crowd leaving the House of Blues after it closes. Although I can't hear in any great detail I am certainly aware and can detect the disturbances that are taking place outside on the street.

I suffer tinnitus regularly from the constant repetitive droning of bass and leaves me suffering headaches for most Saturday and Sunday morning. It usually lasts for a few hours but leaves me feeling tired and playing catch-up on my lost sleep which I don't fully recover from for a few days. My lack of sleep & the ongoing stress of suffering the House of Blues is also a contributing factor to my ongoing eczema.

I have had to suffer this intrusion from the House of Blues for nearly 2 years. I have complained regularly to Waverley Council, had sound recording equipment set up in my flat and had Council representatives at my property monitoring the level of noise in an effort to get the disturbance stopped. It is completely unfair that I should have to tolerate this intrusion in my life. I work hard all week and look forward to my weekends of relaxation but it is just impossible to look forward to weekends when they are spent at home in my flat, the more weekends I can spend away the better, but it's not fair that I should be forced out of my own home in this way.

Mr Nicholas MaCann has shown no regard for local residents who have to suffer his House of Blues, on all occasions the council have approached him concerning complaints his answer has always been to turn the volume up even higher and laugh at those who protest. That's how it appears to have been over the last 22 months, he does not deserve or seem fit to hold a licence that allows him to operate such a venture.

Godalming is such a lovely area to live, but every weekend my whole view point on the town changes with what I have to suffer from the House of Blues.



**GOSSCHALKS**  
SOLICITORS

Licensing Department  
Waverley Borough Council  
Council Offices  
The Burys  
Godalming  
GU7 1HR

**Our ref:** MCJ/VAT/98454-8037-9

**Your ref:**

**Date:** 17 July 2009

**E-Mail:** mandy\_mighty@gosschalks.co.uk

**Direct Fax:** 0870 600 5947

Dear Sirs

**re: House of Blues, Godalming**

We refer to the application for Review made by the Environmental Health Officer which is listed for hearing on the 7th September 2009.

We act for Enterprise Inns Plc which is essentially a property business in the course of which our clients let licensed premises to individual operators. Our clients are the freehold owners of these premises. In the circumstances our clients are an interested party by virtue of Section 13 (3) (c) of the Licensing Act 2003.

We would be grateful if you would accept this letter as a representation in respect of the Review hearing.

We would respectfully submit that the Licensing Objectives and in particular the objective relating to the prevention of public nuisance could be resolved and indeed promoted by adherence to a suitable noise management plan.

We would be grateful if you would confirm receipt of our letter of representation and in due course forward to us the Agenda for the hearing.

We look forward to hearing from you.

Yours faithfully



**GOSSCHALKS**

<b>WAVERLEY B.C.</b>	
CHIEF EXECUTIVE'S OFFICE	
PRM	
DATE	20 JUL 2009 REC'D
DATE ACK:	
PASS TO FOR ATTN:	
ACK. CODE:	
FILE No:	

Queens Gardens, Hull, HU1 3DZ 01482 324252 0870 600 5984 info@gosschalks.co.uk www.gosschalks.co.uk 11902 - Hull

Partners: Simon Lum, Bruce Raper, Ian Lanch, Richard Llewellyn, Neil Johnson, Clare Johnson, Richard Gooch, Roy Taylor, Robert Thomson, Jonathan Beharrell, Nigel Beckwith, Zola Carmichael, Nicholas Dean, Mark Teal, Stephan Walker, Andrew Malory, Ian Brown, Robert Hastie, Richard Taylor, Andrew Johnson, Jonathan Peet, James Phinn, Justin Graves, Matthew Fletcher, Andrew Tarbutt, Ted Flanagan, Kale Groves, Craig Beetham, Stephen Dillon, Ashlie Prescott, Chns Groves, Paul Plaxton

Associates - Victoria Quinn, Nicola Barrass, Andrew Bell, Charlotte Chilcott, Caroline Rule

Partnership Secretary - Martin Haldenby

Gosschalks are regulated by the Solicitors Regulation Authority.





**NORTH**  
 1:625  
 17/08/2009  
 MAP SHEET: SU9743NW

This map is reproduced from Ordnance Survey  
 data supplied to the Ordnance Survey  
 by the Stationery Office (© Crown Copyright,  
 1994). It is reproduced here by permission of  
 the Ordnance Survey. It is reproduced here by  
 permission of the Ordnance Survey. It is reproduced  
 here by permission of the Ordnance Survey.  
 LA 10023451.  
 This copy has been produced specifically for  
 Map Return Scheme purposes. No further  
 copies may be made.

HOUSE OF BLUES, 5 WHARF STREET, GODALMING GU7 1NN



Extract from Guidance issued under section 182 of the Licensing Act 2003(page 69)

## HEARINGS

- 9.19 Regulations governing hearings may be viewed on the DCMS website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be dispensed with by the agreement of the licensing authority, the applicant and all of the parties who made relevant representations. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is necessary. To this end it may wish to notify the interested parties concerned and give them the opportunity to withdraw their representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.
- 9.20 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. If the application is amended at the last moment, the licensing committee should consider giving interested parties time to address the revised application before the hearing commences.
- 9.21 The Regulations require that representations must be withdrawn 24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.
- 9.22 Applicants should be encouraged to contact responsible authorities before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of Regulations made by the Secretary of State. Where matters arise which are not covered by the Regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.
- 9.23 There is no requirement in the Act for responsible authorities that have made representations to attend, but it is generally good practice and assists committees to reach more informed decisions. Where several responsible authorities within a local authority have made representations on an application, a single local authority officer may represent them at the hearing if the responsible authorities and the licensing authority agree. However, an officer of the licensing authority may not perform this role which would compromise the licensing authority's independence.
- 9.24 As a matter of practice, licensing authorities should seek to focus the hearing on the steps needed to promote the particular licensing objective which has given rise to the specific representation and avoid straying into undisputed areas. A

responsible authority or interested party may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.

9.25 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are necessary to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy.

9.26 The licensing authority should give its decision at once, unless the Act itself states otherwise and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be necessary for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition which is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety.

9.27 Alternatively, the licensing authority may refuse the application on the grounds that this is necessary for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearing procedures in full on its website to ensure that interested parties and others have the most current information.

9.28 In the context of variations, which may involve structural alteration to or change of use of the building, the decision of the licensing authority will not exempt an applicant from the need to apply for building control or planning consent where appropriate.

Rh/lao3/guidance/hearings

# APPENDIX B

## LICENSING ACT 2003 SUB COMMITTEES

### RULES OF PROCEDURE

ADOPTED BY THE COUNCIL ON 19TH APRIL 2005

#### 1. General

- 1.1 These rules of procedure are subject to the provisions of the Licensing Act 2003 (Hearings) Regulations 2005 (the 'regulations'). Where appropriate the provisions of the regulations have been incorporated into these rules.
- 1.2 Where in these procedure rules notice is required to be given to the Sub-Committee it may be given to Robin Pellow, Head of Committee and Member Services (01483 523222) in accordance with regulation 34.

#### 2. Composition of Sub-Committees

- 2.1 Each Sub-Committee shall comprise 3 members appointed by the Licensing and Regulatory Committee, in accordance with section 9 of the Licensing Act 2003 (the 'Act'). The quorum shall be three. One member of each of the Sub-Committees shall act as Chairman.

#### 3. Notice of hearing

- 3.1 The licensing authority shall give to the parties a notice stating the date and time and place at which the hearing is to be held (the 'notice of hearing') in accordance with the provisions of the regulations.
- 3.2 The notice of hearing shall be accompanied by information regarding the following: -
  - (a) the rights of a party provided for in paragraphs 4.1 & 8.5;
  - (b) the consequences if a party does not attend or is not represented at the hearing;
  - (c) the procedure to be followed at the hearing;
  - (d) any particular points on which the licensing authority considers that it will want clarification at the hearing from a party.

#### 4. Right of attendance, assistance and representation

- 4.1 Subject to paragraphs 6.2 & 6.4, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

4.2 Upon receipt of the notice of hearing and within the period of time prescribed by the regulations\*, each party shall give to the licensing authority a notice stating:-

- (a) whether he/ she intends to attend or be represented at the hearing;
- (b) whether he/ she considers a hearing to be unnecessary.

\*the notice of hearing given by the licensing authority to the parties shall specify the relevant period of time within which each party must give the notice described in this paragraph

4.3 In a case where a party wishes any other person (other than the person he/ she intends to represent him/ her at the hearing) to appear at the hearing, the notice referred to in paragraph 4.2 above shall contain a request for permission for such other person to attend at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.

4.4 A party who wishes to withdraw any representations they have made may do so:

- by giving notice to Robin Pellow, Head of Committee and Member Services (01483 523222), no later than 24 hours before the day or first day on which the hearing is to be held; or
- orally at the hearing.

## **5. Right to dispense with hearing if all parties agree**

5.1 The licensing authority may dispense with holding a hearing if all persons required by the Act to agree that such a hearing is unnecessary, other than the licensing authority itself, have done so by giving notice to the authority that they consider a hearing to be unnecessary.

5.2 Where all the persons required by the Act to agree that a hearing is unnecessary have done so in accordance with paragraph 5.1, the licensing authority, if it agrees that a hearing is unnecessary, shall forthwith give notice to the parties that the hearing has been dispensed with.

## **6. Hearing to be in public**

6.1 Subject to paragraph 6.2 below, the hearing shall take place in public.

6.2 The Sub-Committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the



public interest in the hearing, or that part of the hearing, taking place in public.

6.3 For the purposes of paragraph 6.2, a party and any person assisting or representing a party may be treated as a member of the public.

6.4 The Sub-Committee may require any person attending the hearing who is in their opinion behaving in a disruptive manner to leave the hearing and may –

(a) refuse to permit that person to return, or

(b) permit him/ her to return only on such conditions as the Sub-Committee may specify,

but such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave.

## **7. Report**

7.1 A report will be put before the Sub-Committee, prepared by the Licensing Officer.

7.2 The Licensing Officer shall send a copy of the report to the parties in advance of the hearing.

## **8. Procedure at hearing**

8.1 The order of business shall be at the discretion of the Chairman, but will normally proceed in accordance with the following paragraphs.

8.2 The Chairman shall at the beginning of the hearing introduce the members of the Sub-Committee, invite the parties to identify themselves and then explain to the parties the procedure that the Sub-Committee intends to follow.

8.3 The Sub-Committee shall then proceed to consider any request made by a party under paragraph 4.3 (request for permission for another person to appear at the hearing). Permission shall not be unreasonably withheld.

8.4 The Chairman may ask the Licensing Officer to introduce the report, and outline the matter before the Sub-Committee. Alternatively, the Chairman may proceed directly to paragraph 8.5 below.

8.5 All parties shall be entitled to: -

- in response to a point upon which the licensing authority has given notice that it will want clarification under paragraph

3.2(d), give further information in support of their application, representations or notice (as applicable)

- if given permission by the Sub-Committee, question any other party. Cross examination shall not be permitted unless the Sub-Committee considers that cross examination is required for it to consider the representations, application or notice as the case may require.
- address the Sub-Committee.
- questioning that is, in the opinion of the Chairman, unnecessarily protracted, repetitious, oppressive, irrelevant or unfair, shall be discontinued at the request of the Chairman.

8.6 The parties will normally be invited to address the Sub-Committee in the following order: -

- Applicant
- Responsible Authorities
- Interested Parties

8.7 Members of the Sub-Committee may ask any question of any party or other person appearing at the hearing.

8.8 Where there is more than one representation raising the same or similar matters or addressing the same or similar issues, the Sub-Committee will request that only one party address them on behalf of the parties who have made the representations in question.

8.9 In considering any representations or notice made by a party the Sub-Committee may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing. [Note also the provisions of paragraph 12.1]

8.10 The Sub-Committee shall disregard any information given or evidence produced by a party (or any person to whom permission is given to appear at the hearing) which is not relevant to:

- (a) their application, representations or notice (as applicable) or in the case of another person, the application, representations or notice of the party requesting their appearance, and
- (b) the promotion of the licensing objectives or, in relation to a hearing to consider a notice given by a chief officer of police, the crime prevention objective.

8.11 The parties shall be entitled to make closing submissions in addition to their address. The closing submissions of any applicant shall follow the closing submissions of any interested party or responsible authority.

8.12 The Sub-Committee may place a time limit on the exercise of the rights set out in paragraphs 8.5 & 8.11 above. All parties shall be allowed an equal maximum period of time.

8.13 The Sub-Committee may, after hearing the representations of the parties, withdraw from the room to make their deliberations. The Committee Secretary will accompany the Sub-Committee when they retire to make their deliberations. Alternatively, the Sub-Committee may ask all parties and the public to leave the room.

## **9. Role of Legal Adviser**

9.1 The Sub-Committee may seek advice or clarification of any procedural or legal matter from the legal adviser at any time during the course of the hearing. The Sub-Committee may seek advice from the Licensing Officer on any technical matter during the course of the hearing, where necessary, in the opinion of the Licensing Officer. The Licensing Officer may procure the services or advice of a technical specialist(s) to advise the Sub-Committee as an expert.

9.2 The legal adviser shall not remain with members of the Sub-Committee when they retire to make their deliberations.

9.3 The legal adviser may join members during the course of their deliberations either when asked to do so or if he/ she realises there is a point of law on which they may need assistance but on which he/ she omitted to advise them in open session.

9.4 If the Sub-Committee require advice on a legal matter during their deliberations the Committee Secretary will so inform the legal adviser on behalf of the Sub-Committee and the legal adviser will join the Sub-Committee to give such advice as he/she considers necessary on the point raised or any other legal matter relevant in his/her opinion.

9.5 Any advice given by the legal adviser to members of the Sub-Committee shall be provisional until the substance of that advice has been repeated in open session and the parties have had an opportunity to comment on it. The legal adviser will then state in open session whether the advice is confirmed or varied (and if it is varied, in what way) before members act upon it.

## **10. Determination of applications**

10.1 The Sub-Committee shall make its determination at the conclusion of the hearing or otherwise as prescribed by the regulations.

10.2 Where a determination has to be made at the conclusion of the meeting it shall be announced by the Chairman in public before the closure of the meeting.

## **11. Failure of parties to attend the hearing**

11.1 If a party has informed the licensing authority that he/she does not intend to attend or be represented at the hearing, the hearing may proceed in his/her absence.

11.2 If a party who has not so indicated fails to attend or be represented at a hearing the Sub-Committee may:

- where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or
- hold the hearing in the party's absence

11.3 Where the Sub-Committee holds the hearing in the absence of a party, the Sub-Committee shall consider at the hearing the application, representations or notice made by that party.

## **12. Adjournments**

12.1 Subject to the provisions of the regulations, the Sub-Committee may

- (a) adjourn the hearing to a specified date
- (b) arrange for a hearing to be held on specified additional dates

where it considers it necessary for its consideration of any representations or notice made by a party.

12.2 Where the Sub-Committee adjourns the hearing to a specified date it shall forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

12.3 Similarly, when the Sub-Committee arranges for the hearing to be held on a specified additional date it shall forthwith notify the parties of the additional date on which, and the time and place at which, the continued hearing is to be held.

## **13. Record of proceedings**

13.1 A record of the hearing shall be kept for 6 years from the date of determination or, where an appeal is brought against the determination, the disposal of the appeal.

## **14. Waiver of rules**

Except where prescribed by the regulations, the Sub-Committee may in any particular case dispense with or modify these rules at its own discretion.

14.1 In particular, the licensing authority may extend a time limit provided for in the regulations for a specified period where it considers this to be necessary in the public interest.

14.2 Where the licensing authority has extended a time limit it shall forthwith give a notice to the parties stating the period of time of the extension and the reasons for it.

## NOTES

### Human Rights

The Human Rights Act 1998 obliges the Council to comply with the provisions and protections of the European Convention on Human Rights. It is unlawful for a local authority to act in a way which interferes disproportionately with a convention right. The Sub-Committee will have regard to the rights protected by the European Convention on Human Rights when exercising its licensing functions.

comms\licensing\2005-06\007.doc

