

DUSK, ONGAR ROAD, PILGRIMS HATCH CM15 9SS

APPENDIX 4

REPRESENTATIONS

Other Persons

Resident 1 – Ongar Road

Megan Bashir, Kumar Lodge, Ongar Road

Date received: 10 August 2019

Comments Details

Neighbour

Customer objects to the Licensing Application

- Crime Objections
- Fitness of Applicant
- Noise Disturbance
- Opening Hours
- Parking
- Prevention of Crime and Disorder
- Public Safety
- The prevention of Public Nuisance

11:06 AM on 10 Aug 2019 There is a legal precedent to prevent any such licences being granted to the above premises. This goes back to multiple court cases being brought against former owners South Essex Motors. BBC and ourselves attended hearings at the local Magistrates Court and Chelmsford Crown Court; at enormous cost to ourselves, not to mention the huge emotional Distress that was caused in the two years it took to have them silenced. There is a Judgement in place and I have copies. The only way these premises can attract clients is by offering late night/early morning activities. We know this causes havoc to the local community. In his Judgement Judge Brian Watling has written "These premises, in its location, is not suitable for such activities." Further more, there is a Restriction on how many clients can attend at any one time 100 - 150 for private functions. There is also a noise limiter requirement. The ambient noise levels in this area drop quite dramatically after 6.30 pm (We had a sound expert from Southampton University carry out tests and present his evidence in Court). Simon Bennet from the Environmental Health Department at BBC also gave damning evidence in court having monitored noise levels here at my house for many months. The potential for severe noise nuisance late at night is a very real danger should any such licenses be granted.

If you would like to see the court documents or come and talk to me you would be most welcome. A neighbour from Frog Street placed information about these proposals in my letter box. If you know who that person is please do share this email with them.

I look forward to hearing from you.

Here is a further image. I tried to photo the glare of the light but my camera could not cope with the brightness. As you know, there are no street lights along this stretch of road and at the time this photo was taken the whole area should have been in total darkness. This image shows the extent to which the sky was lit up.



Please see the attached two images of flood lights positioned on the grass verge directly opposite our property. I counted nine of them in total.

We were woken by bright light at 0.44 this morning. The northern part of our garden was completely flood lit and the lights caused a bright glare that passed through the blinds at our bedroom windows. I telephoned the establishment and the call was diverted to one of the owners. I asked him to switch the lights off. He said he could not as he was at home. He said, 'I know you are! having a go at me' and, 'The lights have been on for a year' A blatant lie which he later retracted. The lights were still on at 04.51 this morning.

This is a further example of the blatant disregard the new owners have for the rural location in which the premises stand, and a total lack of consideration and respect for those of us living nearby. They are causing nuisance and distress. As His Honour Judge Watling said in his Decision to revoke the Bugatti Licenses," These premises in their location are not suitable for late night activity, neither now nor in the future." And incidentally, the owners of Bugatti's were forced by the Council to remove an internally lit sign. This flood lighting is much worse!





Addendum – Mrs Bashir also hand delivered historical files for the location that she believes supports her statement. See attached.

Kumra Lodge
Kelvedon Hatch
Brentwood
CM15 0JX

Mr Dave Leonard
Licensing Officer
Brentwood Borough Council

22 August 2019

Dear Mr Leonard

Re: Licensing Application 19/00072/LAPRE - Dusk, Ongar Road

Further to our recent telephone conversations in respect of the above. It was suggested to me by one of our local Borough Councillors, who is very familiar with the appalling history of noise nuisance emanating from these premises, that I forward certain documents and correspondence illustrating actions that have been taken by Brentwood Council and Licensing Justices in the past to try to secure the quiet enjoyment of the property of those of us living in close proximity to the premises, as is our entitlement in Law.

Whilst I concede this correspondence is anecdotal, including the application for an injunction, (later granted in the High Court), by ~~Mr and Mrs [redacted]~~ and ~~Mr [redacted]~~, the former owners of Kumra Lodge, I hope that you will bring this recorded history to the attention of the Licensing Committee for their serious consideration when the Applications by the current owners of the premises for new Licenses is presented to them in September.

The new owners are already causing distress to their neighbours from both noise nuisance and inappropriate flood lighting that lasts from around sunset to after 5 am each morning. And, incidentally, the area on the floor plan marked Patio used not to be covered over. I am informed that an area of this patio now has decking to provide a dance floor. I have not seen it but that is what I have been told. The ambient noise levels along this particular stretch of Ongar Road and Frog Street fall to between 34-36 decibels between 7.30 -8 pm and 6.30 am. And so it seems to me that it is not unreasonable to ask that similar restrictions to those attached to the Licences granted to ~~Mr and Mrs [redacted]~~ Joy Fook Restaurant, both in terms of the numbers permitted to enter the premises, and music and dancing, be imposed and rigorously enforced should the Licensing Committee choose to grant any licenses.

Yours sincerely



Megan Bashir



Telephone:
(0277) 374314

Your Ref: AS/(C)/AS

Kumra Lodge,
Kelvedon Hatch,
Brentwood,
Essex CM15 0JX

1 March 1991

Dear Mr ~~XXXXXX~~

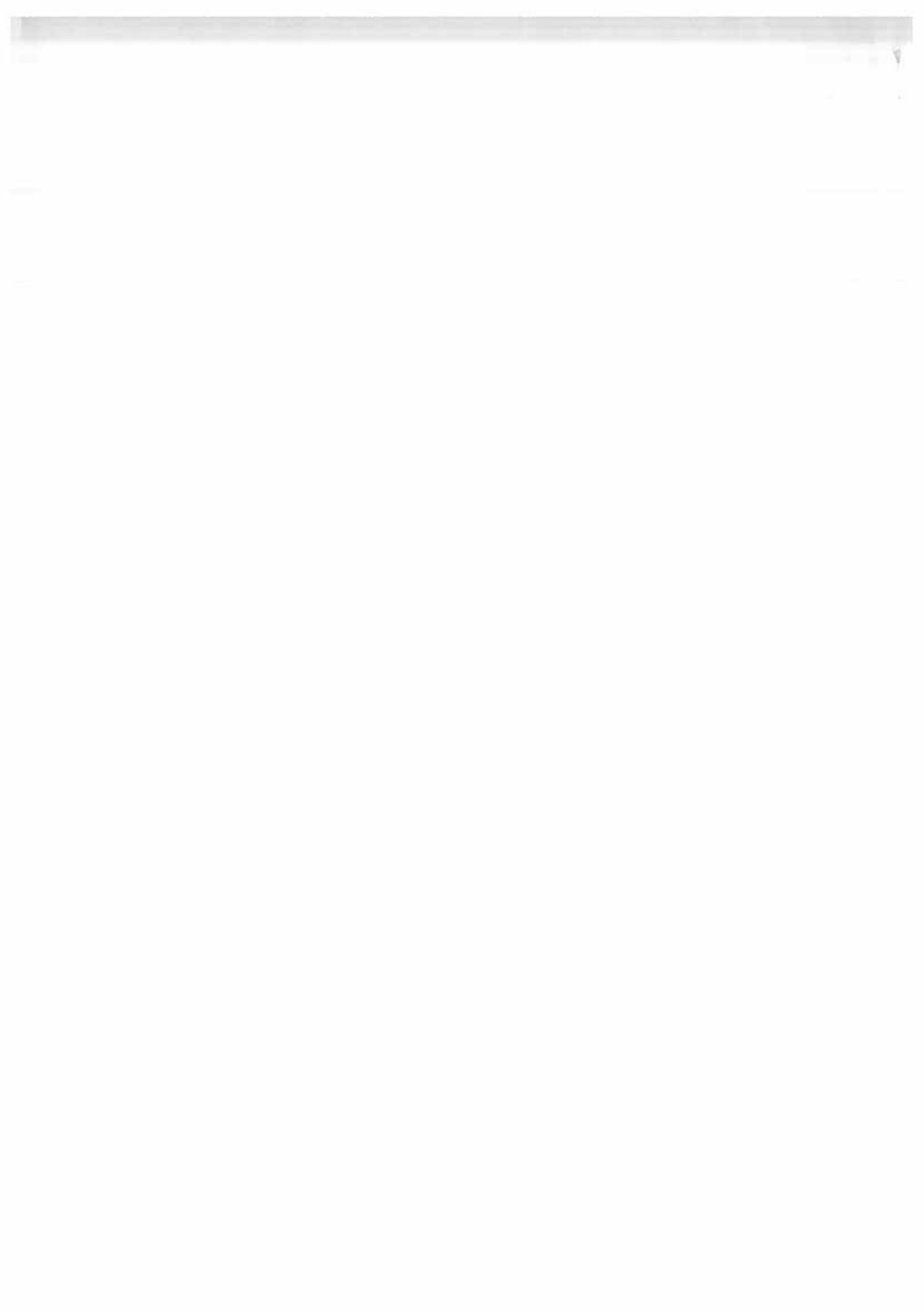
Thank you for your letter of 25 February in connection with the Joy Fook restaurant.

I am writing to confirm that I wish to attend the meeting of the Council's Licensing Sub-Committee on 5.3.91. I will not be accompanied by my legal representative on this occasion.

My objection to the granting of this licence comes about as a result of my family having been subjected to varying types of environmental nuisance emanating from the restaurant to the extent that we are frequently deprived of the quiet enjoyment of our property which is our right. I have informed Mr ~~XXXX~~ on at least three occasions that he is disturbing us, but despite the fact that we have made every effort to be sympathetic to the needs of his business, he has persistently shown a level of insensitivity towards his neighbours which has become intolerable. Since October 4 I have kept a diary, and recorded not less than 21 instances when we have been disturbed by activity from the restaurant, of these, four are listed below:

1. On October 4 1990 we were awoken by extremely loud disco music at 2.46.am. This noise was quite as loud as any experienced during the Jacobs era.
2. On Friday October 12 1990 there was dancing at the restaurant, and flashing lights were being used above the dance floor until 2.15.am.
3. On February 2 1991 very loud bass sounds from the restaurant could be heard until 11.20.pm. Shortly after this a great many cars left.
4. On Saturday February 16 1991 the flashing lights above the dance floor were clearly visible as well as people dancing.

I understand that Mr ~~XXXX~~ has been contacted several times by officers of the Environmental Health Directorate in connection with his licences, and he could have been in no doubt as to the conditions attached to his licences. In any case, he is a resourceful businessman who has lived in Britain since the seventies, and will know that there are a number of prestigious Chinese legal firms in the City who specialise in the conveyancing of commercial/licensed premises, and who would be able to advise him - in Cantonese if necessary - about his various licences. As I understand it, it is his duty to obey the Law, and ignorance of it is never an acceptable excuse for breaking it.



As well as ignoring the fact that he is not entitled to have dancing on the premises at the moment, he has also carried out structural alterations to the building which interfere with the application of the Justices' Licences, and he has installed not less than five different systems to externally illuminate the premises. One of these systems, multi-coloured lights in trees, are particularly intrusive because they are clearly visible from both of our sitting rooms and three of our bedrooms. These lights have also been placed on land which is owned by the Highways Department. These numerous lighting systems cause great disturbance because they create a bright glow in the night sky, and are frequently left on until very late indeed or all night.

As far as I can remember, I did not object the transfer of the Public Entertainment Licence to either of the previous owners of the restaurant, neither did I ever have cause to complain about the way in which Mr ~~XXXXXXXXXX~~ or Mr ~~XXXX~~ conducted their businesses. I make this point so as to stress the extent to which we have been subjected to nuisance by Mr ~~XXXX~~ and I hope that you will lay this letter before members of the Licensing Sub-Committee for their consideration.

Thank you for your attention.

Yours sincerely

M.D. Bashir.



BRENTWOOD DISTRICT COUNCIL

COPY

cc Vallance Lickford, Solicitors, Regent House, 89 Kingsway, London, WC2B 6RH
Assistant Chief Executive. Steve Boyle.
Mrs Bashir, Kumra Lodge, Ongar Rd, Bentley, Brentwood, Essex

DJC(EH)/LHJ/283

Mr D F Carter

282

13 May 1991

Dear Sir

Licensing Act 1964
Joy Fook Chinese Restaurant
Ongar Road, Brentwood, Essex

I refer to the above application for Justices Licences for the above premises which has been adjourned to the 22 May 1991. As you will note from your records, this adjournment was made at the request of Vallance Lickford, solicitors, by letter dated 2 April.

The letter states that 'these adjournments are requested because at present the District Council are maintaining their opposition to the grant of a Special Hours Certificate for these premises. Negotiations are continuing with the Council, and the adjournment is requested to allow those negotiations to be brought to fruition'.

As you are aware, this is the fourth date scheduled for this hearing, but despite these adjournments we would still seek to object to the granting of a Special Hours Certificate allowing the premises to remain open after midnight. I should advise you that we have had no contact with the applicants representatives since our telephone conversation and their letter of 2 April, and therefore no further negotiations have taken place.

It is our opinion that noise from music on the premises and vehicles leaving the premises later than midnight would be more likely to amount to a statutory noise nuisance, particularly as acoustic insulation previously installed has now been removed as part of the alterations.

We would therefore not wish to withdraw our objection to the Special Hours Certificate until it has been proven that the premises can operate in such a way that noise emitted does not give rise to nuisance.

Cont.

13 May 1991

I trust that the above information clarifies our position in this matter. If you have any queries please contact Mr Carter at these offices.

Yours faithfully



Head of Environmental Health Services

The Clerk of the Licensing Justices
South West Essex Licensing Division
The Magistrates Court
Great Oaks
Basildon
Essex SS14 1EH

B3819

from MRS M.D. BASHIR



Telephone:
(0277) 374314

20.5.91.

Kumra Lodge,
Kelvedon Hatch,
Brentwood,
Essex CM15 0J>

The Clerk to the Licensing Justices
South West Essex Licensing Division
The Magistrates Court
Great Oaks
Basildon
Essex SS14 1EH

Dear Sir

Licensing Act 1964
Joy Fook Chinese Restaurant
Ongar Road, Brentwood, Essex

I understand that an application for Justices Licences for the above premises will be made on 22 May 1991, at the Court House in Brentwood.

Whilst we have no objection to the granting of a Justices On-Licence and a Supper Hour Extension, we wish to object to the granting of a Special Hours Certificate.

Most of the nuisance which we have experienced in the past as a result of activities at these premises has occurred from midnight onwards into the early hours, when the ambient noise levels have been recorded at 34 decibels. The present owner has carried out extensive alterations to the premises, changing the internal arrangements and drastically damaging the acoustic insulation fabric of the building by removing it altogether in some areas. Even at the present time, with a licence up to midnight only, we are sometimes disturbed by people driving out of the restaurant car park well after 0100 hours. He has recently been advertising a disco on Thursday, Friday and Saturday nights, and I know that he has ignored condition 11 of the existing Justices Licences and continues to use flashing lights. We are therefore greatly concerned that the premises may revert back to the its former style under this new ownership unless the conditions on the existing licences are retained and enforced.

Would you be kind enough to present this letter of objection to the Justices at The Hearing. I expect to attend the proceedings myself.

Yours faithfully

M.D. Bashir



The Clerk of the Court,
Brentwood Magistrates Court,
Brentwood Essex.

~~XXXXXXXXXXXX~~
~~XXXXXXXXXXXX~~ Frog Street,
Kelvedon Hatch,
Near Brentwood,
Essex.

September 7th., 1986

Dear Sirs,

I have been resident in this area since before the Bentley Golf Club existed.

Over the last few years I have witnessed, with some dismay, how the club house became first a Public House, and then a Night Club.

I cannot, in all honesty, complain about the loud noise of music from which my less fortunate neighbour suffers, but have had to suffer the additional traffic, bright lights in the car park and the occasional problem of noisy disputes and car doors slamming at a late hour.

I did once complain about the parking on both sides of Frog Street and all over the greens and verges at the dangerous junction with the A123, but this has improved to some degree since the car park was enlarged.

My objections to the renewing of the licence of Buggatti's are founded on the belief that this kind of establishment is totally unsuitable for a semi-rural area such as Knightsbridge Corner, Kelvedon Hatch.

The original permission, even if given misguidedly, was for a public golf course and club house with restaurant. The subsequent changes bear little relationship to this and there seems to have been some laxity on the part of the Council, to allow them to happen without objection.

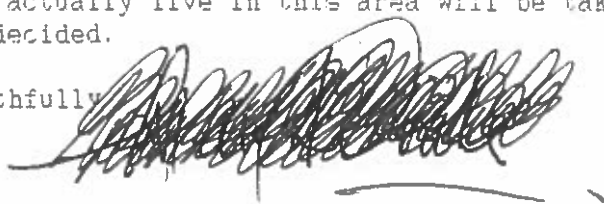
We are constantly reminded that we live in a strict Green Belt area. Indeed, one Council official described it to me as 'Golden Green Belt'. Does the existence of a so-called Night Club really fit in with this description? Is it really fair to the inhabitants of this area to have the amenity of their properties affected by traffic, lights and noise?

And possibly, the value of these properties lowered by the proximity of such an establishment?

I admit that my objections are subjective rather than objective but, as a resident and a rate-payer, I am sure this does not effect their validity.

I trust the wishes of those who actually live in this area will be taken into account when the issue is decided.

Yours faithfully

A large, stylized handwritten signature in dark ink, appearing to be a cursive name, possibly 'John Smith' or similar, written over a horizontal line.

LOCAL GOVERNMENT (Miscellaneous Provisions) Act 1982. Licensing of Places
of Public Entertainment.

"Bugattis" Ongar Road, Brentwood.

- ✓ 1. Public entertainment shall end at 11.30 PM Mondays to Thursdays and at Midnight on Fridays and Saturdays.
- ✓ 2. Notices to posted within the licenced premises and in the car park requesting patrons to be quiet when leaving the premises in the interests of local residents.
3. A steward shall be on duty in the car park at all times that the licence is in force and until all patrons have vacated the premises so as to prevent disturbances to inhabitants of the neighbourhood.
- ✓ 4. Any sound emitted from the premises shall be so controlled as to be inaudible when assessed by the DOEH or his agents at or within neighbouring residential dwellings.
- ✓ 5. The output of all amplified audio equipment (including amplified live music) shall be controlled by a sound limiting device, the specification of which shall be to the satisfaction of the DOEH. The operation and adjustment of the sound limiting device shall be solely under the control of the management. The operational limit of the device shall be agreed in writing with the DOEH.
- ✓ 6. Fit a 30 milliamp residual current device to protect at source any electrical circuit used to supply portable or temporary electrical equipment, including audio visual equipment.

CONDITIONS/UNDERTAKINGS/CERTIFICATES

Certificate under S.68 Licensing Act 1974 limited to areas hatched green and piano bar shown on deposited plan.

Conditions:

1. Intoxicating liquor may be sold or supplied only to:
 - (a) Members of the Bugattis Club and their bona fide guests.
 - (b) Persons attending by prior invitation a private or organised function in the premises.
 - (c) Persons taking a table meal in the restaurant area hatched green on the deposited plan.
2. No person shall be admitted to membership of the said Club without an interval of at least two days between nomination or application for membership and admission. The name and address of the person so applying must be prominently displayed in the Club for at least two days before election, in a part of the Club premises frequented by the members.
3. No off-sales except to a Member in person.
4. The number of persons (excluding staff) in the area marked 'Lower Bar' on the deposited plan shall be limited to 50 club members and guests at any one time.
5. The number of persons (excluding staff) in the restaurant areas hatched green on the deposited plan shall be limited to 60 at any one time.
6. The number of persons (excluding staff) in the area marked 'Piano Bar' on the deposited plan shall be limited to 40 at any one time.

Conditions (contd)

7. The number of persons (excluding staff in the whole of the licensed premises shown on the deposited plan shall be limited to 150 at any one time.
8. A sealed compressor/limiter of studio quality shall be connected into the music signal feed to the amplifiers and the maximum output shall be 80 d B (A).
9. No live amplified music to be played except through the limiter.
10. Whenever a private or organised function is held on the premises the overall maximum number of person (excluding staff on the premises shall be reduced to 100.
11. There shall be no strobe or flashing lights in the dance area.

Undertakings

- The premises shall not be operative until the licensing justices are satisfied
- (a) that the limiter is sealed at 80 d B (A) in accordance with condition 8, and
 - (b) trees have been planted along the Ongar Road boundary to act as a sound baffle.



CHELMSFORD CROWN C

New Street, Chelmsford,

Tuesday, 3rd June 1986.

Before :

HIS HONOUR JUDGE WATLING, Q.C.

And other Justices.

IN THE MATTER OF
THE APPEAL

OF

ROBERT HENRY LINDNER

AND

ROBERT JOHN PAGE

(Transcript of the Shorthand Notes of Hibbit & Sanders,
Wishdown, Wadhurst, East Sussex TN5 6HN.)

MR. V. ROBINSON, Q.C. and MISS HILL appeared on behalf of the
appellants.

MISS M. ELLIS appeared on behalf of the respondents, Brentwood
District Council.

MR. E. ALEXANDER appeared on behalf of the respondent, Mrs. Bashi:

D E C I S I O N

Tuesday, 3rd June, 1986.

D E C I S I O N.

JUDGE WATLING: I should like to begin if I may by thanking all counsel, who have been involved in this case, once again for their assistance. This appeal has lasted for some thirteen and a half hours, and as I indicated yesterday to Mr. Vivien Robinson, leading counsel for the appellants, we think it right in this case to give the reasons for the decision which we have arrived at, and I think I should also preface what I am going to say by indicating that the decision we have arrived at is our unanimous decision. We have written out our reasons, and my colleagues and I have had the opportunity of considering that format together, and therefore what I am about to say is the decision of all of us.

Because this hearing has lasted so long I shall not of course, in giving my reasons on behalf of all of us, go into all the evidence. Therefore those pieces of the evidence to which I refer are by no means all of the matters to which we have given consideration in arriving at our decision.

That brings me to our reasons. This is an appeal against a refusal by the Brentwood Licensing Justices on the 11th March 1986 to renew a supper and special hours certificated on-licence in respect of the premises known as Bugatti's night club in The Ongar Road, Brentwood. If we were, in considering this appeal, to take particular cognisance of the wording of the notice of the appeal itself that would be very restrictive. Because the notice of appeal says that the decision of the justices was contrary to the weight of the evidence, and that they failed to give any, or any sufficient,

weight to the expert evidence called on behalf of the present appellants. We would like to say that we think, on the evidence before them, the justices were absolutely right to reach the decision they did. Quite clearly, as we shall indicate later, there was a very serious continuing noise nuisance. We have no doubt, in reaching that decision, they did give weight to the evidence of the expert witness, Mr. Marriott, who was then called.

These proceedings are entirely impartial, and therefore I shall begin by dealing with one or two matters of law. Mr. Alexander, for one of the objectors, Mrs. Bashir, submits that the appellants are not entitled to rely on any events which have occurred since the 11th March. We reject that submission. This is ^ahearing de novo and not infrequently it is the presentation of fresh evidence to the appellants' tribunal that causes it to reach a different decision from that of the magistrates' at the first instance.

Secondly, we were exercised as to whether we were entitled to take into account the location and suitability of the premises generally, for use as a disco or discotheque, rather than merely confining ourselves to the question of noise propounded by Mr. Robinson.

Our attention has been drawn to the case of Lidster and another v. Owen which is reported in the (1983) 1 All E.R. 1012, where in relation to a music and dancing licence it was held that the magistrates did have a wide discretion as to such matters. However, Mr. Robinson submits that, even if we were entitled to look at such matters, he would seek to distinguish

the case of Lidster and another v. Owen from this present case. It would, he submits, be unfair to his clients the appellants, and in effect contrary to the rules of natural justice for us to do so.

We do doubt the suitability of these premises, in their location, for use as a discotheque but we wish to make it perfectly clear that we accede to Mr. Robinson's submission, and for the purposes of determining this appeal we have confined ourselves solely to answering the question which he himself posed this morning, in the terms in which he himself phrased it. The question is this: Is our view that as of now, and in the future, there will not be a noise nuisance of the sort which caused the licensing justices to take the view they did? We have heard a substantial body of evidence about this. There is not, in our view, the slightest doubt that up to and including the weekend of the 4th/5th May, and possibly a few days afterwards (that is some 8 weeks after the original hearing before the justices at Brentwood) there was a serious continuing noise nuisance emanating from these premises.

Nuisance can be defined as that which unreasonably and materially interfere with the quiet enjoyment by an individual of his or her premises. Mr. Dibble, the appellants present noise expert (the previous one Mr. Marriott having been dispensed with after the earlier hearing,) concedes that on Saturday 15th March 1986, when he was first instructed, and attended the premises at 0100 hours: "The noise", to quote his evidence, "amounting to a nuisance would certainly have existed at that time".

We have heard a mass of evidence, and as I have already said I do not propose to go through anything like all of it, and if I fail to refer to a particular piece of evidence we are not to be taken as having left that out of account in reaching our decision.

The principal witness perhaps was Mrs. Lashir. It was suggested to her, in effect, that she was so obsessed by the question of noise emanating from the premises that she had exaggerated her evidence, and that in effect her intention was, if she could, to get the premises closed. This was put perfectly properly by Mr. Robinson, but with great firmness, and she dealt with the suggestion sensibly and fairly, and we think it right to her to say that we were impressed by her evidence. Understandably it may have become something of an obsession, but in our opinion this is hardly to be wondered at. We do not think that she was exaggerating. We think she has been through a nightmarish ordeal and we would like to say that she, in our view, conducted herself before us with dignity and propriety.

Three police officers were called to contradict her on this specific point. Two had visited the premises internally, and all had visited them externally a number of times. All said that in their view there was never, at any time, emanating from the premises such a noise as amounted to a nuisance. We reject that evidence. It is clear that there was a noise nuisance, and it is, to say the least of it, regrettable that the first officer, P.C. Rickford, who was called to establish the bona fides of the club as a well run establishment, had an interest which he failed on two occasions to disclose. Which,

when reported to the appellants' legal representatives, and these specifically exclude counsel, was not disclosed to the court. We cannot help wondering why, if it is so well run, a more senior and independent officer was not called to say so. We certainly do not allow ourselves to be influenced in any way in reaching our decision by the absence of such evidence.

We accept the evidence of Mr. Grove that in the period 8th to the 31st May there was no, or virtually no, noise in the period running up to the appeal, but there is, as I think I have already made clear, a continuing history of noise nuisance.

As examples of, if you like, the warnings given to the appellants, at the Transfer Sessions on the 2nd July 1985, Mrs. Lashir made clear her objections. On the 14th October 1985 the Noise Abatement Notice was served by the District Council. On the 19th December 1985 there was a council meeting at which the views of the authorities were made plain, and on the 1st January 1986 the music and dancing licence was only renewed for 3 months, and the appellants therefore had ample warning. Ample warning that the premises were not complying, in the view of various interested parties, with the noise requirements, and we have to say that in our view they did not take, or rather took no, or no proper, notice because at all times there has always remained the simplest over-riding control, turning down the volume.

People go to a disco, there is some objection as to whether it should be called discotheque, one is a diminutive of the other. People go to dance, and they go for the noise.

They get hyped up with drink, the music beat and noise. At 2 o'clock or thereafter they pour out, go into their cars and go off.

I want to take, for the purposes of these reasons, three illustrations from the evidence of Mr. Bennett, to whom the court is indebted, and from whom both Mrs. Bashir, and indeed the club itself, have had every possible assistance. We would like to make that clear as well. He made something like 21 or 22 visits, either to the premises themselves or to the surrounding locality, in the course of the pursuit of his employment as Assistant Environmental Health Officer. On the 1st January, as I said, the music and dancing licence was renewed only for 3 months, but on the 9th January at 2350 hours, in the first floor front right hand side bedroom with the window open, the bass was clearly audible, also when the disc jockey spoke, and there were occasional strains of other parts of the music including heavy guitar chords. In relation to that particular incident, only 8 days after the proprietors of this establishment had been put on the clearest possible notice that they were very much at risk.

Mr. Bennett was asked this question: "Did the noise in your view amount to a nuisance?", and without any hesitation he said: "Yes". On the 22nd February, with the hearing for the renewal of the licence coming up on the 11th March, the beat of the music was clearly audible inside the house, with the window open. When he went to the club the noise limiter was set at 110. This was the highest this machine was capable of being set at. There was some suggestion in evidence that 110

would blow the machine to smithereens, but if the management of this club was so anxious not to offend the local residents, and to comply with the noise requirements, we totally fail to understand why, on that occasion, the machine was set at the upper maximum limit.

Finally on the 7th March at 12.24 there was a record with a heavier bass content. It was even more intrusive than previously. That was outside Kumra Lodge. It was clearly audible. He says: "The noise was, in my opinion, sufficient to constitute a nuisance".

It is Mr. Bennett's view, and the view of Mr. Dibble, the appellants' sound expert, and I quote: "Sound insulation works to the premises alone are not sufficient without a limiter control". "It is my opinion", said Mr. Dibble in cross-examination, "The design of the building is such that volume regulation is essential if noise nuisance is to be avoided".

We come to the last piece of evidence of this kind, to which I propose to refer. It is the evidence of Mrs. Harley (now I am going slightly outside the rules) a lady, if I may say so speaking for myself, of the utmost respectability, by whose evidence I was very much impressed. She described what she heard that weekend, and this^{is} now the 4th/5th May and the club has not had its licence renewed: "When I went to bed and I lay my head on the pillow I used to hear this thump, thump, thump. I first heard this in the summer of 1985. Wednesdays and Saturdays of most weeks I heard it. I am a very heavy sleeper, but the noise prevented me from

getting off to sleep, and continued from 12.30/1.30 a.m.

It was a continuous thudding noise, and it went on and on and on". Then she came to this particular weekend, and she said: "From the 30th April to the 4th May my husband also heard it for the first time and he has perforated ear-drums. It was noisier than it had ever been before. My husband opened the window and could hear nothing, but as soon as you put your head on the pillow you could hear this continuous thumping". Now that can only mean one thing. The sound was being transmitted by the ground.

Here is the club, so anxious to comply with the regulations and not to give offence. This is the weekend before: "We were very disturbed and because I had no sleep that Sunday night going into the Monday morning I had a very bad headache, which I get when I have no sleep". She said that the noise of the refrigerated lorries in the park, not far from the house, was quite a different noise which she could identify and distinguish. She said: "It isn't the same noise at all. A totally different noise".

There was also a failure to comply with the bank(?) laws. Not something to which we attach great importance but it is a fact. We understand only too well the importance to this club of this licence. There has been an investment of a million pounds. Though perhaps attention should be drawn to the fact that only 3% of that sum has been spent on sound insulation works, or works designed to control the sound. It has 4,000 members who pay about £25 membership and £3 entrance fee each time, £6 for a guest. The turn over is

118,000 a week, getting on for £1,000,000 a year.

We understand, in reaching the decision we have arrived at, only too well the consequences for the club of our decision. It is said on behalf of the club by Mr. Robinson, in his most able, impressive and persuasive argument, that it would be manifestly unreasonable not now to allow the club a chance to show it has cured the problem, by renewing its licence.

We are afraid we disagree. We are unanimously of the opinion that we are not satisfied that now, and in the future, there will not be noise nuisance emanating from these premises. We do not consider that it is in the public interest, for these reasons, for this licence to be renewed, and accordingly this appeal is dismissed.

* * * * *

Resident 2 – Frog Street

Brian and Carolyne Billington, Orchardene, Frog Street, Kelvedon Hatch

Date received: 09 August 2019

DUSK Ongar Road, Brentwood, CM15 9SS application for entertainment licence and extended hours.

We would both like to place our objections to the above application. We have lived here for 29 years and the previous owners always closed at midnight on the weekends and were very respectful to their neighbours. Already, even before they have a licence they are creating noise and staying open hours past closing time. This is just not right or fair to neighbours. With an application to add entertainment it is going to be so loud at unreasonable hours. The previous owners were a restaurant only and did not play loud music.

Could you please confirm you have received these objections.

Resident 3 – Frog Street

Sue Norris, Cow Farm, Frog Street, Kelvedon Hatch

Received date: 09 August 2019

- Premises about which I am making representation:

Dusk, Ongar Road, Pilgrims Hatch CM15 9SS
- The licensing objective that I think will not be met if the application is granted:

The Prevention of Public Nuisance
- The reason(s) for my view and any evidence in support:

Frog Street is a quiet lane that has a number of sharp bends. It will inevitably be used as a cut through after Dusk closes by cars driving too fast and dangerously as occurred when Joy Fook had evening parties there in the past. The finish times requested of 00:00hr Mon-Thurs and Sunday and 02:00hr on Friday and Saturday will cause a public nuisance from cars on our lane and noise from the 'club'. I have no objection to a licence being granted for alcohol to be served but do object to the finish times they have requested.

Resident 4 – Ongar Road

**Mick Ballard, Farrington Cottage,
Received date: 15 August 2019**

I understand that Dusk restaurant on Ongar Road is applying for a late music/entertainment licence.

I am writing to formally object this application as we are close neighbours and have already experienced late evening noise and disturbance.

Myself and my wife have lived at Farrington Cottage for over 35 years and the previous owners of Joy Fook were a lot more considerate to their neighbours with minimal disturbance.

It is a green belt area not a high street so my wife and I would strongly object to a licence being granted.

Resident 5 – Ongar Road

**Myself, Mr M Ballard and my wife, Mrs J Ballard live at Farrington House,
Ongar Road, Brentwood, CM15 0JX
Received date: 15 August 2019**

To whom it may concern,

Please take this email as a formal objection to the application for a premises licence at Dusk, Ongar Road, Brentwood, Essex, CM15 9SS.

Myself, Mr M Ballard and my wife, Mrs J Ballard live at Farrington House, Ongar Road, Brentwood, CM15 0JX and we both agree to object to this Licence as we have a young family and the disturbance already is interrupting sleep. We both feel that there is no respect and consideration for its neighbours and as we have 3 young children they shouldn't have a successful application.

Please also note that the venue is often open way past these times and that the revving of cars and shouting in the carpark is often heard at late hours as customers are leaving.

Also the Public Notice of Application is displayed on private land (the carpark) and is not easy for other neighbours to see.

Thank you for your time in this matter,

Resident 6 – Frog Street

Des and Pat Taylor, Laburnum Cottage, Frog Street

Received date: 18 August 2019

We should like to register our objection to the proposed modification to the terms of the licence held by the operators of the above premises as it seems to be in direct contradiction of the area being Green Belt, and all that is implicit by it being so.

Extending the trading hours of the premises would bring further noise pollution - directly from the premises, as well as indirectly, from vehicles & people leaving in the wee small hours.

We are located in a short, direct line from the premises and noise generated is easily carried over open ground with just a few trees between it and our home. Other neighbours have agreed that they too can hear this and they may object separately.

In essence, our objection is based on (a) the insidious changes to a designated Green Belt area and all that means, and (b) the noise generated from such an operation will affect residents of the locale for even more hours than seems reasonable or considerate; surely there must be a limit to the things residents are expected to bear, just so a commercial enterprise can generate even more income?

Resident 7 – Ongar Road

Kevin and Karen Addison, Kingsley Cottage, Ongar Road

Received date: 05 September 2019

We would like to register an objection to the above licence application as it is totally unsuitable for this semi-rural location.

Firstly they are requesting late night opening to 2am, this will lead to nuisance from drunken revellers in the early hours of the morning.

Loud music will be a nuisance with excessive volumes. This will be compounded as they also have external areas.

They are already advertising for DJ evenings and private hire for parties etc which demonstrates that they intend to turn the venue into a nightclub, this is not fit for this rural environment.

Crime is likely to increase in the local area with another venue attracting young party goers mixed with alcohol consumption to the early hours of the morning.

We urge you to please keep this venue in line with the original application as a restaurant with an opening time no later than 11pm

Resident 8 - Frog Street

Linda and Richard Martin, 10 The Avenue, Frog Street

Received date: 02 September 2019

Ref: 19/00072/LAPRE

Relating to Dusk Ongar Road CM15 9SS

We wish to object to the application for late night licences for music and entertainment during the week and at weekends.

The venue has already held late night events that made sleep impossible.

Our lives would become unbearable if this application was granted.

Resident 9 – Frog Street

Colin and Eileen Fox, Tolfalas, Frog Street

Received date: 03 September 2019

Premises Licence Application: 19/00072/LAPRE

We object to the above application by Dusk to extend the licensing hours to have music dance and similar on the grounds that is in a semi-rural location and the late night noise travels across the open spaces to the surrounding houses.

There can already be music and fireworks from Old Brentwood's and Ashwell's in the area.

Resident 10 – Frog Street

Received date: 02 September 2019

Re: Premises Licences - Application under consultation by Dusk, Ongar Road, Pilgrims Hatch

Ref: 19/00072/LAPRE

We have recently become aware of an application by the above establishment for a licence to supply alcohol, films, live and recorded music, dance and anything similar until midnight during the week, and 1.30 am Friday and Saturday nights.

We earnestly and respectfully request that this application be rejected for the following reasons:

1. Our home is one of the nearest houses to DUSK. We are situated on Frog Street, just around the corner from the restaurant. We are only 300 meters away, as the crow flies. If any events take place locally, or even much further away such as at the Brentwood Centre, the noise of late night music or people shouting, partying and talking late at night carries very clearly across to our house.

REDACTED TEXT

With regard to the above information, we repeat our EARNEST request that this application be refused.

2. In addition to the above, as residents of Kelvedon Hatch, we do not feel that granting DUSK the licence in question will benefit local residents. The licence would effectively grant the establishment nightclub status, which is not appropriate for a small semi rural area. There are party and DJ facilities already available at other local establishments, such as at Bentley Golf Course and Ashwells. These establishments do not play loud music until late at night every single night of the week.

Thank you for your consideration. If you have any questions about the above response, we will gladly provide any further information that will help with this consultation.

Resident 11 – Frog Street

Received date: 27 August 2019

The application is to be able to supply alcohol, films, live & recorded music, dance and anything similar and late night refreshment from Mon - Thurs 1600hrs - 0000hrs, Fri & Sat 1600hrs - 0200hrs, Sun 1300hrs - 0000hrs.

The basis of my representation is that if the application is granted, the activities of Dusk and their customers will constitute a public nuisance.

The premises is very close to a residential area and the late night music in particular will cause distress to the owners of the neighbouring houses, especially as the establishment will not close until midnight on Sunday to Thursday and 2:00am on Friday and Saturday!

I am sure there would also be an increase in late night traffic down Frog Street (a narrow country lane) as satellite navigation systems direct vehicles along that route to get to the A12.

If the licence is granted and the noise proves to be a problem I suppose there will be no alternative but to contact the Environmental Health Department and pursue the issuing of an abatement notice and/or endeavour to have the problem solved through the local magistrate's court.

I really do not think it is appropriate for this type of establishment to be situated so close to a residential area.

Resident 12 – Frog Street

Received DATE: 09 August 2019

I live with my family at the property, its adjacent to the new 'dusk', I believe they are applying for a late night licence with alcohol and music until 2am !?

I can only assume this email is almost a waste of your time and they cannot possibly get this granted – we live in a semi-rural location and remain there for this reason, a late nite music and alcohol licence I strongly oppose to being granted right next door.

'dusk ' have put up spotlights – some pointing at the house – where do I get permission certificates for this – I know Bentley golf club (member for 30 years) had to get them – they have now been now redirected but a late nite licence cannot be allowed – they regularly breach their 11pm licence already causing noise and disturbance, drunk and disorderly diners looking for taxis, drivers wheel spinning out of the car park – its all out of order and changing our otherwise tranquil setting.

REDACTED TEXT

Please take all the above into careful consideration and deal with this ridiculous request for an even later licence accordingly.

Resident 13 – Frog Street

Received date: 08 August 2019

I write with reference to Dusk restaurant, Ongar Road, CM15 9SS and strongly object to the licensing applied for.

Reasons:

The current music, live DJ's, for which have not been agreed to have been incredibly loud. We have phoned and messaged on numerous occasions to have the music turned down. Thus, if the owners are already not considerate to their agreed current opening hours and restaurant only, we very much doubt they will stick to any licensing granted.

Joy Fook, although did have a premises and live music license, they did not have an outdoor area and did not operate in the week with any music. In fact, they only operated one night a week with music until midnight then closed promptly. Dusk has a very large outdoor Sheesha? area for which there is absolutely no demand or desire to have in this area. The sound travels and this is not a separate building, thus the doors would be opening and closing a lot of the evening, hence sound travels. Speaking to the owners of Dusk, they are trying to encourage people to go down for a Sheesha and a meal, rather than a coffee and a local meal in town. There is no need for this.

Late night entertainment is provided nearby at Ashwells and Old Brentwoods, and on very rare occasion at Bentley Golf Club. Due to the close proximity of all four establishments, noise travels and can be heard from all. We really do not wish for the fourth to be granted a license as sleep will be impossible. This has already been raised with the owners, prior to any licensing consideration, as it is currently too loud.

No respect or understanding of the local area has been demonstrated. The establishment has done exactly as it pleases. The hours have not been those granted ie the council said it closed at 11, but on facebook and in reality it has been closing at gone 1 and 2 am.

Bentley golf club had to get planning permission for a spotlight to be put up. Dusk seems to have put many up with no planning permission. They are saying that they were there before with Joy Fook, but they were not, we have lived here for 14 years and there were none. Again, the owners have total disregard for local neighbourhood as the spotlights were shining straight into our bedrooms which took away any privacy. Following various heated discussions, these have now been reangled. However, could we have a copy of the planning application for this, bearing in mind the golf club had to get one.

We were never consulted on any outdoor cafe entertaining area, which we now discover to our disappointment is a Sheesha pipe smoking bar. Bearing in mind

the average age of local residents is fifty years plus, we do not feel this was needed whatsoever. The local residents do not wish for a live entertainment venue to open. We were also assured no alcohol would be sold, and now find out that they are applying for an alcohol license on top of live entertainment. They have admitted by phone conversation that they do not have a harpist as displayed in their application in the entrance to the car park. They have admitted their music is too loud (copy of transcript has been sent to Mr Dave Leonard).

Dusk have not obeyed the current licensing given to them. We live in a semi rural quiet area. We do not wish whatsoever for a live late night entertainment venue to open up next door. A nightclub has previously been closed down by local residents within the same venue before it became Joy Fook. As well as the music being very loud, people leaving the premises are very loud, the cars wheelspin in the car park, taxi's arriving, drunk people get in, we really do not want this. This will cause considerable stress to ourselves and our neighbours.

We support our local community. Our daughter is a secondary school teacher at a school in Brentwood, our other daughter is training to be an occupational therapist, my husband leaves the home at 6am for work. We have lived in Brentwood all our lives and enjoy our way of semi rural living. We have goats, alpacas and dogs. Having lived in Brentwood and Blackmore all our lives, we did not move to our current address for this. We feel very strongly about this.

Good afternoon Mr Leonard,

Following on from your telephone conversation, whereby you kindly gave me an update to the planning application re Dusk I would like to confirm our household objections. I would firstly like to emphasise that we would wish the proprietors of Dusk to remain, but as a restaurant only. Reasons as below.

Late night entertainment involves noise. Even with someone standing in the car park, it cannot be guaranteed there will be no noise. We hear people shouting, I wouldn't say laughing more like screeching, cars skidding, cars beeping horns etc. Prior to Dusk when Joy Fook had dancing on a Saturday there were fights in the car park and lots of shouting. This did not end when the premises closed for the evening. It's not a car park where people can be "made to leave" as such. We have one adult daughter who is a secondary school teacher in Brentwood. Currently it is summer holidays. She cannot return to work to care for 30 plus children safely if she has had no sleep due to ongoing next door. We look after local authority children, sometimes the children have already suffered neglect and trauma. We have already text Dusk when a child could not sleep because of the noise. This would be detrimental to the well being of children living here if a late night license were granted. The shouting in the car park cannot be guaranteed to stop because quite simply put if people are drunk and want to shout they can and the staff cannot exactly gag them. If people want to use their cars for noise, they can, the staff can only ask them not to. The children need to feel safe, secure and settled. That cannot happen if they are being woken up due to music. The music can be heard. There is an outdoor "Sheesha" area and doors open from the restaurant to that area as well as to the car park where there are two sets of doors. These doors have to be open frequently.

Crime in the area is already well known. However further down the road there are quad bike gatherings. A few years ago I returned from shopping one winter eve to see "shadows" in our field. As I shouted out the people ran into the car park. I called the police as was quite scared. The people were from Joy Fook and had decided to play football in my garden the police said. This cannot be guaranteed not to happen again.

We did not move next door to a late night entertainment venue and would not have moved here if this was the case. We moved next door to a restaurant that had a dj until midnight on a Friday and Saturday. It was not open on a Sunday evening and closed early in the week. One person was outside at all times.

We keep Alpacas and goats. Our neighbouring fields have horses. Dusk chose to have a firework party at the side of the road one evening without warning. All horses and animals went berserk. Firework shells landed on the Ongar Road and in our field. Absolutely no safety regard was taken by Dusk whatsoever.

We have lived in Brentwood (Mount crescent and south drive) and Blackmore (fingrith hall lane) all our lives. Our parents all live in Brentwood as do siblings. On top of that we do a lot for our community. As well as teaching and fostering, we operate a baby equipment/clothes/toys recycling operation from our home.

We strongly object to a late night entertainment license being granted. It is not in keeping with the community, it does not attract local residents to the premises and we already have Ashwells and Old Brentwoods in "hearing" distance. We do not need another. It does not create many jobs for those locally. As pointed out by Sharif the manager, he employed lots of people in order to sack over a third of they don't cut the training properly. Surely employ those you need and train them up rather than just sack as he put it.

He also said he is trying to get people to embrace their way of life so rather than school mums going for a coffee after doing the school run, they will go to Dusk for a Sheesha! Personally we haven't experienced Sheesha before and do not wish to. Although legal, am sure it can't be very good for you and I would be surprised if this is something the council feels it should promote to operate late at night in the area. Along with dancers, dj, live and recorded music, this was not what was agreed when Dusk opened. They have taken alcohol off the application. This makes no difference to us at all. They have said 1.30am rather than 2am, again this makes no difference.

Originally planning put up by yourselves said harpist and guitarist. That's now been replaced with dancers, dj, live and recorded music and films. The average age of residents must be 50 plus around the area. It would joy benefit us at all. I hope you and your colleagues understand as I am sure you would not appreciate a late night license with the trimmings being granted permission next door to yourselves where there many living who are responsible for young children.

Please see part of conversation at 2348 the other week. They have djs, not as advertised a harpist and a guitarist. They, in our opinion, are trying for an entertainment license saying a harpist but actually so far it's been djs. I have already commented to you that they are not obeying the opening hours and are closing beyond 11, which you can see from them replying saying music turned down by this time gone midnight! Even though they are telling you it's 11pm, it's not!! Frequently people are leaving at 2am.

Please please, we hear music from Ashwells and old brentwoods very faintly, Bentley golf course on very rare occasions. We really do not need another late night premises opening up here. At no point was anyone consulted. Joy Fook was a restaurant, they were very respectful of any noise. It seems so far that Dusk are doing exactly as they please with no respect or consideration for any neighbours. Joy Fook did not have an outdoor entertaining area. Dusk has a massive outdoor area whereby the noise travels from their Sheesha bar! Again we really did not want a Sheesha bar next door but there was no consultation because they didn't display any planning application so no-one knew about it. Neither is nor neighbours received any consultation through the post.

One of our daughters is a secondary school teacher in Brentwood. We care for children within the local authority. Our other daughter is training to be an occupational therapist. We seriously all need our sleep! We do not oppose a restaurant with full closing time at 11pm as agreed. We strongly oppose any extending late night premises and live entertaining license. This will cause much stress to ourselves. We simply cannot sleep, due to the noise from music travelling when doors are open and through their outdoor entertaining area, following through with shouting in the car park when guests leave.

Please please can we oppose this late night opening. We haven't ever had 2am even from Joy Fook. We are all so upset that this may even be considered. This until they moved here was a quiet area. The owners are not local, they do not understand the tranquility of the surrounding area. We didn't move next door to this.

Sorry Dace, but we feel so strongly and I can't log in, due to server problems.

Kind regards.

Hi again

It seems that since the application for premises license was put in on 5th August, and subsequently displayed, the sale of alcohol has been taken off the notice, albeit we have the original printed, as do many neighbours it seems. We still strongly object to the late night license and are hoping that the Council will also see that the premises should be in line with the judge's ruling, regardless of the sale of any alcohol. However we would also like to add, that as this is a bring your own alcohol restaurant, people are leaving extremely intoxicated as they are taking cases of beer, wine etc. into the premises.

Sorry, but we really want the premises to be as it is meant to be. We didn't move here 14 years ago to be next to a very late night opening entertainment venue. We have lived in Hartwood area and Blackmore area all our lives, we are local residents from birth. We really are becoming quite stressed over this possibility that we and our neighbours don't want here.

Member - Cllr Vicky Davies

Received date: 14 August 2019

A/o Mr Dave Leonard

I have been contacted by several neighbours of Dusk concerned about the proposed extension to opening hours at a Dusk restaurant.

I wish to make representation against the application to operate until 1 30 on the following grounds

The proposed extension of trading hours to 1 30 am would impact on the neighbours quality of life by potential noise nuisance in the outside area.

There is the potential for public nuisance when people disperse leaving the premises

I strongly support the use of a noise limiter in the outside area and close supervision of customers leaving the restaurant.

Thank you

Vicky Davies - 2019-08-14 07:47:06

I am receiving several strong objections to the application for extended hours of business at Dusk restaurant. You may be aware that there is a history of court action taken by residents, supported by Brentwood Council against previous owners Buggati's which led to strict hours of trading being imposed.

I am concerned that should extended hours of business be allowed it would create noise and disruption to residents in what is currently a quiet rural green belt area.

Vicky Davis

