

Application to Vary a Premises Licence

BRAVE NELSON, 138 WOODMAN ROAD, BRENTWOOD CM14 5AL

APPENDIX C

Representations

Other Persons

Mr Stephen Caccavale

Mr Neil Hutchinson

Mr Ross Morrell

Ms Karen Strudwick & Mr Kevin Ollig

Mr Ian Palmer

From: Ian Palmer [REDACTED]
Sent: 12 April 2021 12:20
To: Licensing; Paul Adams; Dave Leonard
Cc: [REDACTED]
Subject: Objection to Brave Nelson license variation

The following objection is made with information available to me at the present time. As there has been very limited access to officers, there may be some errors that could perhaps be corrected if time permitted.

This licenced premises is unfortunately situated within a normally quiet residential area. Its evolution from a family public house with a pleasant beer garden appropriate to its surroundings has transitioned to a facility that creates significant noise and disruption to local residents. This noise comes from both the uncontrolled children especially during the daytime followed by the late night revellers that the premises seems to attract. Many complaints have been made to the various Council enforcement groups with little effect. In recent times, pre- COVID, unless the noise is exceptional, it's not even worth residents notifying the system.

This proposed variation to the current license to create a "permanent" bar facility (licensing officers appear to suggest that this facility does not fall under the temporary COVID relaxations that are allowed to re-open up the hospitality industry) will provide the licensee with effectively doubling the size of the bar serving area for the licensed premises for the hours and days applied for. I suggest that this is inappropriate in the middle of a residential area!!

The concerns expressed below regarding the proposed license variation are linked to the following:-

From:-
Home Office Revised Guidance issued under section 182 of the Licensing Act 2003

The licensing objectives are: •

- 1) The prevention of crime and disorder; •
- 2) Public safety; •
- 3) The prevention of public nuisance; and •
- 4) The protection of children from harm.

The provision of a licensed bar within the beer garden seems to go directly against the first and third licensing objectives. The creation of extensive covered areas and ready direct access to alcohol in the

beer garden is highly likely to produce further incidences where certainly the younger patrons continued to totally ignore the licensed hours with the inevitable highly vocal drunken outbursts witnessed pre-COVID. These vocal outbursts have been the reason behind many of the previous complaints regarding these premises.

The Home Office guidelines referenced above states in para 1.5 that licensing exists to :-

protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises; •

The patrons that frequented these premises certainly demonstrated that they had no interest in the noise nuisance they caused and the parents had no concerns over the anti social behaviour of their children. The proposed direct and easy access to alcohol in the beer garden at the times/days applied for is unlikely to improve their sense of responsibility for themselves or to parents with their children.

providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and • encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

The licensee has repeatedly demonstrated a lack of interest in the local residents but simply regards the premises as a money making tool with no community involvement. The local residents therefore have to rely on the compliance officers to control the behaviour of the licensee. Unfortunately there has been little evidence of any form of practical control with extra bar facilities likely to exacerbate the problem for officers to monitor compliance.

The fourth licensing objective, refers to not only physical harm but also to psychological and moral harm against children. As a local secondary school Governor, I see many children involved in safeguarding issues with a variety of underlying causes.

The Licensing Act 2003 Part 7 Children and Alcohol was developed to safeguard children from the various consequences of alcohol. I find it disappointing that Brentwood Council is even considering providing a licence variation that would create an extended bar in an area set out to allow children to play. There is no security or any limited access to the play area, therefore no control over there being unaccompanied children on site, a matter expressly covered in section 145 of the Act. The Act is also very clear on the consequences of allowing children to consume alcohol. I believe it was that reason why a bar is generally positioned away from easy access by children. It is also the reason why children must not be exposed to the consequences of excess alcohol consumption. The regular vocal demonstrations of intoxicated patrons seen previously will not be helped by an easier convenient access to alcohol. There is no reason for needing an external bar within an area frequented by children that could then potentially expose those children to abuse (in its broadest sense) except for financial greed.

Ian Palmer
Resident
South Drive

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From: Karen Strudwick [REDACTED]
Sent: 05 April 2021 17:56
To: Licensing
Subject: Brave Nelson Public House

Follow Up Flag: Follow up
Flag Status: Completed

We would like to raise objections to the application for the licence to serve alcohol in the garden.

The landlord and his staff have demonstrated an irresponsible attitude to the residence situated in and around this public house.

- Not adhering to terms and conditions of the licence.
- Clients still in the garden drinking after 10pm at night.
- Playing music /showing football on the TV in the garden on occasion when they know that is not allowed.
- Leaving the doors and windows open causing a disturbance.
- No control over the clients leaving after closing time to keep noise to a minimum. Taxis arriving , engines left running, door slamming loud voices.

When the first lockdown was eased no conforming to the government guidelines.

- Very loud voices coming from the garden area none compliance with clients being served seated at a table.
- Clients standing at the bar drinking.
- No control over people coming and going when clients were meant to book a table.

In preparation for the 12th April lifting of restrictions the Brave Nelson has made changes to the garden area.

- Tables and chairs have been crammed into the garden area without sufficient distance between.
- An addition to a covered area at the rear of the garden which only encourage clients to stand drinking and not seated as per government guidelines.
- A TV built into a unit has been placed in the garden.
- And there is a play area in the garden , will this be closed. If not then children/ adults will have a reason not to be seated.

Allowing the licence for the garden until 9.30pm needs to be looked at as it will mean clients will potentially still be in the garden until 10.30/11pm which is totally unacceptable for the residence in and around this public house.

I have been dealing with Dave Leonard and the environmental officer for a number of years with the on going issues at The Brave Nelson and this Landlord and this licence for the garden will cause a huge

disturbance to the already frustrated residence in and around this public house.

Importantly the none compliance of the government guidelines will cause the infection rate to increase and put the country into another lockdown!

Karen Strudwick & Kevin Ollig

Woodman Road,
Warley,
Brentwood,
Essex,

Sent from my iPhone

[Coronavirus Message - Hands Face Space - Fresh Air.]<<https://www.gov.uk/coronavirus>>

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From: Licensing
Sent: 12 April 2021 08:55
To: Debra Wright
Subject: FW: NOTICE OF APPLICATION TO VARY A PREMISES LICENCE (The Brave Nelson, 138 Woodman Road, Warley, Brentwood, Essex, CM14 5AL)

Follow Up Flag: Follow up
Flag Status: Completed

Dominika Jaskolska | Admin Assistant, Brentwood Borough Council
T 01277 312510 | www.brentwood.gov.uk |
[REDACTED]

From: Hutchinson, Neil [REDACTED]
Sent: 09 April 2021 18:32
To: Licensing <licensing@brentwood.gov.uk>
Cc: Dave Leonard [REDACTED]
Subject: RE: NOTICE OF APPLICATION TO VARY A PREMISES LICENCE (The Brave Nelson, 138 Woodman Road, Warley, Brentwood, Essex, CM14 5AL)

My address is:
[REDACTED] Woodman Road
Warley
Brentwood

Neil Hutchinson [REDACTED]
[REDACTED]

From: Licensing <licensing@brentwood.gov.uk>
Sent: 09 April 2021 16:46
To: Hutchinson, Neil [REDACTED]
Cc: Dave Leonard [REDACTED]
Subject: RE: NOTICE OF APPLICATION TO VARY A PREMISES LICENCE (The Brave Nelson, 138 Woodman Road, Warley, Brentwood, Essex, CM14 5AL)

EXTERNAL EMAIL

Dear Mr Hutchinson

Please find attached acknowledgement to your representation to the Brave Nelson premises licence variation application.

Kind regards,

Debra Wright | Licensing Technical Officer | Brentwood Borough Council
T| F 01277 312500 | www.brentwood.gov.uk | licensing@brentwood.gov.uk

From: Hutchinson, Neil [REDACTED]
Sent: 01 April 2021 14:11
To: Licensing <licensing@brentwood.gov.uk>
Cc: Dave Leonard [REDACTED]
Subject: NOTICE OF APPLICATION TO VARY A PREMISES LICENCE (The Brave Nelson, 138 Woodman Road, Warley, Brentwood, Essex, CM14 5AL)

To whom it may concern,

This email is with regards to the notice of application to vary the license for The Brave Nelson on Woodman Road.

The outside area of The Brave Nelson has been a problem for the last few years, due to its over development, and poor management. Excessive noise is generated from the outside area, which, as it is outside, carries significantly. The Brave Nelson is in close proximity to residential housing on all four sides, so the excessive noise, negatively affects the lives of residents, making an outside bar unsuitable.

There is no requirement to add an outside bar area to cope with the restrictions for Covid-19. Taking drinks and food orders from the table would suffice. The excessive noise has significant health and social problems, and shouldn't be dismissed as merely an inconvenience.

The Brave Nelson is frequently in breach of their existing licensing agreement now, so an extension to the agreement wouldn't seem to be appropriate.

Regards,

Neil Hutchinson | [REDACTED]
[REDACTED]

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From: Ross Morrell [REDACTED]
Sent: 05 April 2021 11:32
To: Dave Leonard; Paul Adams
Subject: Fwd: BRAVE NELSON - APPLICATION TO VARY A PREMISES LICENCE
Attachments: BRAVE NELSON appln to vary PL 10MAR21 redacted.pdf; BRAVE NELSON garden plan 26MAR21.jpg

Dear Mr Leonard and Mr Adams

Having reviewed the full licencing application I can see that Mr Duley has taken some considerable time and expense to address potential concerns.

Please find below by objections for consideration.

* The prevention of crime and disorder - the application states that there will 'be plenty of staff' to monitor the new bar area to keep it clean and to deal with incidents that may arise. One persons idea of 'plenty of staff' and another persons can differ considerably. As with any business the driving force, is profit. Given this 'plenty of staff' will always be whatever the lowest cost verses service will allow to achieve the maximum profit. This number should be a licencing stipulation. Thus to allow for effective and safe management of this new facility a minimum staffing number should be set by the licencing authority taking into consideration that this is an application to double the size of the bar area.

* The prevention of public nuisance - this application is a doubling of the bar area and as detailed above there is insufficient detail in what action has been taken to increase staffing levels to accommodate this.

Mr Ross Morrell
[REDACTED] South Drive
Brentwood
[REDACTED]

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From: Stephen Caccavale
Sent: 30 Mar 2021 20:08:47 +0100
To: Licensing;Paul Adams
Subject: The Brave Nelson

Dear Sirs

I wish, in the strongest possible terms, to register my objection to the proposed change of license at the Brave Nelson in Woodman Road. This change can only mean more noise and disturbance to the surrounding neighbourhood which was already at unacceptable levels.

The licensee, Mr Duley, has proved time and again, his total disregard for his surroundings, seeking only to improve takings. I refer you back to the meeting held on the premises last summer where proposals were made to reduce the negative impact caused by the premises. Since then, no action in this regard has been taken.

I can see from following the trail of emails sent from [REDACTED] that, as per usual regarding these premises, that no real attempt was made to inform the local residents of these changes.

I assume the hope was that all the changes would go unnoticed and unchallenged. I would therefore implore any licensing committee, sub or otherwise, to visit the site for themselves, and then in all honesty, tell me that it is appropriate for such an 'attraction' to be at this location, enclosed, as it is, on three sides by homes.

Please see the following:

<https://howtorunapub.co.uk/noise-pollution-and-noise-complaints-page-4/>

Extract from the above link:

*You have a responsibility to protect the **public** from **noise** Under environmental legislation, you could be found guilty of causing a "statutory nuisance" if **noise** from your business affects a member of the **public's**: health. enjoyment of their land or property, for example a neighbour of your **pub** in their home or garden.*

BBPA guidance for publicans on effective management of noise from licensed premises to avoid unwanted sound or nuisance noise, which could cause complaints.

Businesses have a statutory duty to control excess noise and failure to do so can lead to prosecution.

Environmental Protection Act 1990, [section 79](#)

1. the time of the day - **night-time noise that is likely to disturb sleep** is much more likely to be actionable than daytime noise
2. the duration of the noise - unpredictable sporadic noise has a greater capacity to create nuisance (subject of course to other factors listed here)
3. **the frequency of the noise** – tonal content of noise e.g. a whine can significantly increase the capacity of a noise to create a nuisance
4. whereabouts the noise is heard – noise (from a premises) audible in the street but not in a house is very unlikely to be an actionable nuisance (even if the noise is heard within a dwelling, if it only affects a bathroom or kitchen (not otherwise used as a **living room**), then action is unlikely)
5. defendant's motives – even an otherwise innocent act could be an actionable nuisance if it is done with malice although this can be very difficult to determine
6. **the character of the neighbourhood** – where the background noise level is low for example in an entirely residential area, the threshold at which sound can be heard will be lower and noise is more likely to be at an actionable level
7. **continuous or repetitive incidents compared to isolated incidents and the time the nuisance occurs**
8. unusual sensitivity – 'The Eggshell Skull Rule': if a plaintiff is particularly sensitive to a particular type of noise, it is not actionable unless one can show that the **noise would have affected a 'reasonable' person's enjoyment of their property**

I look forward to your prompt reply

Faithfully

Stephen Caccavale

■ South Drive
Warley
Brentwood

■

■