

LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS) ADDENDUM 5

10.00AM, WEDNESDAY, 25 NOVEMBER 2020

VIRTUAL

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ADDENDUM

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LEE WAIN

WITNESS STATEMENT

1. I maiden name is Lee **REDACTED TEXT**. My married name is Lee Wain. I live at **REDACTED TEXT**. This statement is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have willfully stated anything in it anything which I know to be false or do not believe to be true. The facts in this witness statement are within my own knowledge or are derived from sources which I explain.
2. I am making this statement in response to the additional evidence which was served on us last Friday.
3. In the beginning Simon Ebers, my business partner, was at the premises more so than I was. It is a Partnership. We share responsibilities. **REDACTED TEXT**. Simon lives above the Regency which is a 10 min walk. **REDACTED TEXT** We employ competent staff. We have only had 2 management teams; one from opening until lockdown, and one on reopening on 4th July. **REDACTED TEXT** is the new manager and **REDACTED TEXT** is the assistant manager. **REDACTED TEXT** has had my contact details for some time, as well as those of Simon. In the past, **REDACTED TEXT** has texted me or Simon with a request to turn the music down. We have always complied. This has happened on a handful of occasions. The contact details are displayed in the front window. We are more than happy to supply **REDACTED TEXT** contact details.

4. **REDACTED TEXT** disputes the length of time that the premises were closed during the refurbishment following our signing of the lease on 16th August 2019. **REDACTED TEXT** says *“The previous licensee, Stella\ left The Ranelagh (as it was previously known) on the 22nd August 2019 and Le Village had their Grand Opening on 30th August 2019. This is 8 days and not 4 weeks”*. In fact, Stella (the previous operator of the premises) had ceased to operate the premises and had vacated them some weeks before we took them over. We refurbished the premises and had a soft opening for the press and local businesspeople on 30th August 2019. We then closed again because we were not ready and reopened them full time on 4th September 2019.
5. We installed a new sound system and set levels with buttons that had plastic bars which were designed to prevent the music being turned up. Our electrician, **REDACTED TEXT** installed the system. At that stage we did not install a noise limiter (as we have done now) because it was not thought necessary. It is not accepted that **REDACTED TEXT** “regularly” advised us to install a noise limiter. The old system was not perfect and did not prevent the levels from being raised. We now recognise that it is necessary to install a limiter. Our new noise limiter is fool proof and tamperproof and has been installed by a professional. I entirely understand why **REDACTED TEXT** was unable to give our acoustician access on the day that it was installed. It was short notice, and I entirely understand **REDACTED TEXT** reservations. Our acoustician was able to gain access to the hallway of Darwell Court, however, and has set the levels extremely low. If the limiter needs adjusting at a future date, then it is hoped that **REDACTED TEXT** will be able to allow access to **REDACTED TEXT** flat for the purposes of setting the levels.

6. We fitted a dampener to the front door to soften the sound of it opening and closing at the request of REDACTED TEXT. We ensure that this door is closed after 9pm when we have entertainment on.
7. It may well be that the previous occupier did not use the full extent of the permitted hours. We are only using the hours that the premises have historically had the benefit of. It seems, on reading REDACTED TEXT further submissions, that there were problems with our immediate predecessor. She says *“There were noise complaints when REDACTED TEXT ran the pub. REDACTED TEXT contacted EI group asking assistance as various neighbours had submitted noise diaries to the Council. EI intervened and the nuisance ceased”*.
8. We had absolutely no idea prior to taking over the premises that there had been this noise issue. It was only when REDACTED TEXT introduced herself and suggested that we talk to two other residents that it became clear that there had been a problem. I am unsure why REDACTED TEXT says that that REDACTED TEXT *“only met Mr. Ebers in Feb 2020”*. He was present with me in our first contact with REDACTED TEXT, and spoke to REDACTED TEXT on many occasions prior to February 2020.
9. I take issue with REDACTED TEXT suggestion that *“Since Le Village opened there is regular arguments, anti-social behaviour and fights and these are normally around Le Villages closing times, which as shown previously their closing times differ to other local establishments”*. It is an easy thing to make these sweeping generalisations. The reality is very different. As an LGBTQ venue we attract very little by way of disorder, compared, say, to a heterosexual venue. I repeat what Simon has said in his statement.

Kempton is a very busy place with a large number of pubs and businesses open late (some are the same hours as us and one later than us-The Bulldog is licensed for the sale of alcohol up until 3am, **but is open until 4am**). I say again that the majority of Darwell court is on the opposite side to Le Village and closer to The Zone, Bulldog, Bloc and St James. All of the neighbouring premises (save for Shortts and The Camelford Arms) provide music and entertainment.

10. The High Street is used as a cut through down to the sea front. Hundreds of people pass along the High Street on a busy Friday and Saturday night and late into the morning who have not set foot in our premises.

11. I emphasise the importance of the short CCTV clip that we have provided which unquestionably shows that Zone was responsible for the music breakout on that evening (and many others). The music easily carried the short distance to Darwell Court. I mention this because it is an illustration of how easy it is to mistakenly blame Le Village for noise escape which originates from an entirely different venue. This occurs with Zone at least 2-3 times a week when they do cabaret evenings. I would suggest that this is because there has been an automatic assumption that any noise (music or otherwise) is the fault of Le Village.

12. **REDACTED TEXT agrees that other premises have caused noise nuisance.** She says *“Other than on a couple of occasions, which were handled quickly by the Manager, the Zone Bar’s music has not been a nuisance to the residents of Darwell Court.*

13. There is a further example of how easy it is to blame Le Village for the actions of others contained in REDACTED TEXT assertion that *“The main instance this refers to was reported to the police – party on the pub balcony until 4.30am and noisy people leaving the pub. Other evenings where the balcony has been used and noisy until early hours of the morning”*. There are three residential flats above our premises. The residents have tenancies granted by us. These flats have a shared balcony. The balcony does not form any part of our licence. I feel it important that blame for the actions of unruly residents playing loud music on their balcony should not be laid at the door of Le Village. The first that we knew of these residents causing disturbances was when we received the application for review. These residents have all been warned by us as to the impact on their leases if this conduct is repeated in future. Similarly, these residents in the flats above do use the council bins (as they are permitted to). We do not.

14. In fact, we have had to call the police on only two occasions (not one as Simon has said). The first was on 20th March 2020 (our closing night) when the police were called because a female customer spat at a doorman. The second was as described, namely a man who had recently been released from prison assaulted a customer. Our security called the police, followed the assailant to his home, and provided the police with CCTV which resulted in a successful prosecution. There was no suggestion that he was drunk or that he had been over served. This took place on 26th August 2020 at 21.00.

15. The police have conducted random drugs tests at the premises which have always been clear. It is significant, I say, that the police make no representations on this review. Since we have been open, and other than above, I have not witnessed one fight, nor have I been told of one taking place.

16. I mention Ardingly Court and the drugs problem that has historically been associated with that address. A quick Google search for the address and “drugs” brings up references to the following articles. It is perfectly clear that there has been a problem there for some time. It is just unfair to suggest that Le Village has in any way contributed to this. The sorts of issues associated with Ardingly Court relate to crack and heroin dealers who sell to addicts and street drinkers. They operate from flats in the block. Police have taken enforcement action and closed one such flat.

<https://www.theargus.co.uk/news/18182696.brighton-drugs-residents-ardingly-court-fear-crime-block/>

<https://www.theargus.co.uk/news/18206020.ardingly-court-drugs-flat-shut-police-reports/>

The last link relates to action that the police have taken in May 2020 (when our premises were closed because of the regulations). Police successfully disrupted two county lines drugs rings when officers swooped on the old William Hill premises in St James’s Street.

<https://www.brightonandhovenews.org/2020/05/08/drug-dealing-disrupted-as-offenders-spotted-more-easily-during-coronavirus-lockdown/>

None of this is the fault of Le Village or its customers. It has everything to do with a more general problem associated with Brighton and Hove which the police appear to

be tackling proactively. I can well understand why residents of Ardingly Court would be eager to support REDACTED TEXT when REDACTED TEXT visited them and canvassed support for REDACTED TEXT review.

17. The service of the noise abatement notice on 15th January 2020 came as a shock. We really thought that we were on top of the noise issue. The reported conversation between our old manager REDACTED TEXT that *“I wanted to party”* and insisted *“it’s (my) house and (I) will do what (I) want”* is, frankly, so far removed from the ethos of how I run my premises that I will comment only briefly that this is nonsense. As is the suggestion that *“Lee only visited REDACTED TEXT and spoke with REDACTED TEXT) to threaten to personally take us to Court over the noise abatement order”*. I strongly deny that I threatened to take any resident to court. I did say that, however, that I was appealing the notice.

18. Complaints from the residents had not occurred for some time, and so it was a double shock to receive this application for review. It is a matter of regret that it has progressed this far.

19. REDACTED TEXT criticises us for our Facebook post relating to 20th March 2020. *“Going out with the biggest of bangs”* was a figure of speech. We were told at 5pm that day that we had to close indefinitely at Midnight that evening. It was not an indication that we were going to allow our customers to behave badly.

20. The photograph of the outside of the premises showing Simon and the doorman outside with the customers is held up as evidence that COVID-19 Guidance was not being adhered to. The allegation that Simon in some way overruled the doorman and allowed the admission of a customer to a premises which he deemed to be full is denied. There was a handful of persons outside the premises (as opposed to the 40 or so outside The Camelford Arms). It is accepted that some of our customers may have been too close. In mitigation, I would say that COVID-19 has been a very difficult time for us. It is a fluid situation which changes on a frequent basis. It has been a steep learning curve for operators as well as the general public. We adhere to the rules as best we can. We have had visits from local government officers, and they have been happy with what we are doing. We are trying our best under very difficult circumstances. Do we get things wrong sometimes? Yes, I am sure we do, but it is new to us and we have been swamped with ever changing regulations and guidance.

21. As a result of the 10pm curfew and up until the most recent lockdown, we have not needed door staff. It was never a condition of our licence that we had to employ them. They are only employed from 21.30 onwards, and there seemed little point in employing them for only 30 minutes.

22. Interestingly, during the 10pm curfew period there were hardly any people outside the main door smoking. This was because we were able to accommodate them in the garden (people only have to vacate the garden at 23.30). This reinforces my point that if the condition for the garden is amended as we ask (*"save for those persons smoking,*

the garden shall be cleared of patrons by 23.30 and the door kept closed after 23.30”
and adding “*no drinks or drinks containers shall be taken into the garden after 23.30”*)
then the position outside the main door is considerably improved.

23. The two gazebos are being installed in the garden on 24th November 2020 at a cost of £6,000. They will have covered sides and a roof. No, we have not had our acoustic expert examine the impact on noise emissions because they have not yet been installed. It is very much hoped that they will make a real difference in containing noise of patrons. I should add that no one has complained about the noise of patrons in the garden.

24. I make it clear that I am not suggesting that all of the residents are homophobic, but I do say that I have certainly encountered a concerning response from one resident who I was careful not to name. It is noteworthy that the resident in question has now sought to clarify REDACTED TEXT position by putting pen to paper. My recollection of our conversation is quite clear. REDACTED TEXT. REDACTED TEXT pointed to windows where REDACTED TEXT sleep when they spend the night. REDACTED TEXT said that “it wasn't so much the noise but what could be seen”. REDACTED TEXT made it clear that REDACTED TEXT did not want them looking out of the window and seeing people with "all this and all that". REDACTED TEXT then gestured using camp hand signals.

25. I should also say that when the same REDACTED TEXT complained about the front door of the premises banging, I immediately addressed this and installed dampeners.

26. In conclusion, I very much regret that the residents have sought a review. In a way, it is a good thing, in that all of these matters can be publicly aired before the LSC. All parties will know precisely where they stand and what is expected of them. We have made concrete proposals as to the way forward and as to how the LSC can seek to resolve this review. Looking towards the future, it is my firm belief that le Village can peacefully coexist with the residents.

Signed.....

Lee Wain

Dated 23rd November 2020

