

## APPENDIX 4

### ANALYSIS OF FOIA INFORMATION RE PARIS HOUSE LICENCE REVIEW APPLICATION

An application under the Freedom of Information Act 2000 (“**FOIA**”) by the author (CH) was made on the 15/8/22 and BHCC supplied the information described below on 23 and 24/2/23.

A copy of the FOIA application made by the writer with some annotations from BHCC is at **pages 388 and 389** of **Part B** ( see below) (and also at pp233 and 234 of Part B).

#### **The information supplied covered the period 2016 – early August 2022**

This information contained many copies of the same document and some were incomplete. It was not numbered consecutively and was put into three parts for analysis: –

**Section A** 40 pages of service request sheets detailing complaints received and action taken (received 23/2/23). **Numbered A1 – 40.**

**Section B** 390 pages of mostly emails covering the period 2016 - August 2022 (received 23/2/23 in encrypted file). **Numbered B1 – 390.**

**Section C** 114 pages of miscellaneous documents (received 24/2/23). **Numbered C1 – 114**

**The contents of the three sets of papers were read and an analysis made of relevant documents .That analysis includes cross references to documents within the FOIA information and to others referred to in the Applicants’ Submission and supporting documents.**

**For ease of reference the relevant documents in each section are marked as A1–15; B1 – 80; and C1- 11 and their document number is shown next to each one on the relevant page(s).**

**The analysis refers to the document number and shows the pages where it can be found in the information provided.**

**An index showing where the numbered documents can be found in each Part and a further analysis of topics arising from the papers is provided .**

**It is emphasised that most of these topics are common to the Applicants’ evidence for the period August 2022 to the date of this application.**

**A . 40 pages of Service Request Sheets re the Paris House**

Year and ref.	Description and comment	Page No
2017		
A1	<p><b>22/7/17 - Loud music. Happening all the time.</b> complaint received <b>02.06</b> hours. 230 called no answer. Unable to leave a message and request a call to discuss. (incident no 1.)</p>	<p>Page 1 NB TIME</p>
2018		
A2	<p><b>5/2/18 - "Loud music from Pub.</b> referred to 5/2/18. Phoned at <b>01.10</b> and a message left on answerphone. <b>01 41</b> – phoned back, music had stopped – advised to phone on Saturday if a problem again. <b>Letter</b> sent to Pub on 6/2/18 re "further complaint from a neighbour" <b>of noise from loud music from the pub is causing a disturbance to them in their home."</b> (incident no 2)</p> <p><b>PH put on notice recordings might be made and visits to witness noise at any time could take place.</b></p>	<p>Page 3 – 5 NB TIME</p> <p>PH NOTIFIED</p>
A3	<p><b>17/4/18– Loud music, live band.</b> See attached emails... Has history. On 18/4/18 1520 <b>email</b> sent to the pub referring to the letter previously sent on 9/2/18 about noise from the Paris House. States the recipient had been asked to be kept informed of further complaints and advises that person of a complaint on 17/4/18 that the pub was <b>particularly loud</b> and caused complaints to be made on the night. "<b>Please ensure that noise levels from the pub are kept in check and account is taken of the doors being open when customers leave or enter.</b>" Noise diary sent out to complainants – page 7. (incident no.3)</p>	<p>Page 6 – 8</p> <p>PH NOTIFIED</p>
A4	<p><b>10/7/18.– "Music from the Paris House between 6–8 was unbelievably loud today. I've raised this issue a number of times and the management has done nothing. The video clip attached here was taken from – redacted. I spoke to the pub and asked them to shut the pub door..... Around 730. They agreed which is a big change to the usual response– that they have a licence – word. redacted - the Paris House just gets louder. They're now playing music for two hours every evening seven days a week. I plan to take decibel readings every day and asking neighbours of their opinion. The video gives you an idea of the problem."</b> Reference is made to recent history. Overleaf a letter is to go to "Pub and comp" – presumably the Pub and the complainant. <b>Note on 18/718 no action and no visit is to be taken or made.</b> Reference also made to the <b>6/8/18</b> and <b>14/11/18.</b></p> <p>(incident no.4)</p> <p><b>At page 10 reference is made to " recorder fitted mic being held out of window distorted wind blowing across mic ." ?? is this the reference in B14 to failure of recording by BHCC to produce reliable information ?</b></p>	<p>Page 9 – 10</p> <p>LICENSEE's ATTITUDE</p> <p>PH NOTIFIED</p>

<b>2019</b>		
<b>A5</b>	<b>8/5/19 - Loud music causing a nuisance “ Letter sent to perp and comp” Video needed to confirm time . (Incident no 5)</b>	Page 11 – 12 PH NOTIFIED
<b>A6</b>	<b>10/6/19 Loud music and open doors every night.</b> Reference to this being a duplicate of redacted on <b>25.6.19. BHCC officer spoke to comp and sent new letter to perp. (Incident no.6)</b>	Page 14 – 15  PH NOTIFIED
<b>A7</b>	<b>18/10/19– “Constant noise from this pub every night and often mid/late afternoon. I know there have been many complaints made about this establishment already, but no action seems to have been taken. Please advise as to what steps are being taken to curb/reduce this noise. Many thanks. Email sent 23/10/19 to complainant explaining re mediation and how no action could be taken until that had finished or was “unsuccessful.” (Incident no 7).</b>  <b>See CH’S email to BHCC - by this time they had been told that we had left mediation because of licensee’s attitude and it had failed. APP 16.</b>  <b>NB This complaint was made just four days after mediation with Residents 1 and 2 and CH and VH.</b>  <b>Not known if or when PH were notified of this complaint .</b>	Page 16 - 17
<b>2020</b>		
<b>A8</b>	<b>11/8/20. - “Loud music and people noise. Councillor complaint.”</b> Complainant <b>identified but name redacted. (Incident no.8)</b>	Page 18
<b>2021</b>		
<b>A9</b>	<b>26/7/21 “Live jazz band playing at the pub. Music finished at approximately 945 on Sunday night. Reference re this complaint seems to include a visit to the complainant who stated “this old pub has music on out of scales of decibel. It has no any isolation. We residents family with children. This noise of affect the sleep of our children and causes all of us stress and sleep deprivation.” (sic) This is on <b>page 23</b>, and it is unclear whether this relates to this complaint or 24/8/21.-<b>A10</b> On page 20 complainant refers to living in a flat. Admits not frequent but when bands play ....Could be closing door might help. (Incident no.9)</b>  <b>Page 22 appears to relate to this – “Live jazz playing at the pub.The music was so loud I had to close all my windows.”</b>	? Page 19 - 23  SLEEP  Page 23
<b>A10</b>	<b>24/8/21– complaint of loud music re Paris House. Email 23/8/21 from Councillor Phelim MacCafferty.(“PM”) - <b>page 25</b> -refers to the pub causing upset once more. He states “a key part of residents’ issues has been vaguely worded, ambiguous and old conditions relating to</b>	Page 21 and 25

	<p><b>the licence.” He seeks clarification about how to have them updated and clarified and has copied this email to the licensing department too.</b></p> <p><b>If licensing objectives are not being sufficiently promoted this can be done by a review - at BHCC’s discretion. Councillor suggesting cause is conditions imposed sixteen years before by LP which is the body to change them.</b></p> <p>His letter is a response to an email of the same day from a resident complaining about <b>“a rock band, playing in the pub on Saturday afternoon until 7 pm. The volume of the noise was excessive.”</b> In a later email the same complainant states <b>“I have to say the noise is making my life unbearable. This is my home. I feel I’m being driven out.”</b> (Previous Saturday was 21 August 2021.). (Incident no.10)</p>	<p>Page 26</p> <p>Page 25</p>
<p><b>A11</b></p>	<p><b>26/8/21.</b> Pub representative said they will have the previous sound expert come and check the decibels. They also alleged they do shut the doors or windows but patrons open them <b>as it gets hot inside.</b> They are open to mediation and refer to having undertaken this previously but will ask the owners first. <b>What happened about this? Submissions D.1.13(iv) – was additional method of ventilation installed as condition imposed in 2005 required ?</b></p> <p>Noise diary to be sent to complainant.</p>	<p>Page 23</p>
<p><b>A12</b></p>	<p><b>29/10/21 “Live band on until 10pm happens frequently. When doors closed noise is okay but open is extremely loud “</b></p> <p>Matter closed by BHCC because couldn’t contact them. Nobody responded to phone call on 18/11/21. Did speak to complainant on 12/11/21 when officer spoke to that person via phone. <b>They complained about a Cuban band that was too loud. They didn’t mention anything about the doors being open and requested a noise diary.</b> (Incident no 11)</p> <p>There is a reference to 29/10/21 – presumably due to this complaint. The complainant said <b>“The bands are playing regularly on the Thursday. The noise is fine when the door is closed. It is causing a nuisance when the door is open (when people enter etc). The music is not playing past 10 pm”</b> The officer indicates they can speak to the manager regarding the decibels of music but doubts this could be considered <b>a noise nuisance (once a week when the doors open).</b></p> <p>An <b>email</b> was sent to the Pub on 2/11/21 asking if <b>“it would be possible for you to check the decibel level of the bands please, just to check all complies with the licence and standards.”</b> Adds that the complaint was about music levels when the doors open so perhaps the door could be closed on those nights, if it is not already.</p> <p><b>?? Enforcement agency asking licensee to check its own equipment??</b></p> <p><b>Any check by BHCC of the decibel levels? Any report from the Pub they did as requested and, if so, what had they found? Any consideration of the suitability of the premises given these repeated complaints? Any acoustic/ sound protection? Any concerns about the placing of the bands and DJ played music etc right next to the front doors?! Why is licensee left to carry out own checks by</b></p>	<p>Page 27 - 29</p> <p>Page 28</p> <p>Page 29</p> <p>Page 29</p>

	enforcement agency? May not be a statutory nuisance but could warrant reapplication of conditions before 2300 - review??	
2022		
A13	<p>10/1/22 - "Extremely loud music played past 1 am." The complainant was spoken to and the officer has noted "The pub "the Paris House" plays extremely loud music late into the night, sometimes past 1 am and we can hear it throughout our house. It is so loud we can hear the lyrics, and sometimes it even vibrates. It happens on Sundays and some weeks it's past 11 pm and Fridays and Saturdays past midnight sometimes even past 1 am. I reached out and emailed to ask them to turn it down past a certain time. They suggested the noise may not even be coming from them, which is obviously untrue as nowhere else so close to my house plays live music plus we even walked outside to check how loud it is on the street before too. I politely asked if you could agree on a time to turn the volume down, such as by 10 on weeknight and midnight on weekends. They then stopped responding.</p> <p>It is making it really hard to sleep and we have to be up early on weekdays for work. We are having to wear uncomfortable earplugs just to attempt to fall asleep. We don't understand why they need to have it SO loud. It is a tiny pub so they could easily have the volume lowered and their customers still enjoy the music. I mentioned this to my neighbour and - redacted -and other neighbours have also reached out to them and they're not being very understanding or willing to sort the issue" Diary explained. (Incident no, 12)</p>	<p>Page 30 Page 31</p> <p>NOISE NOT FROM PH CLAIM – NOT ACCEPTED BY RESIDENT</p> <p>SLEEP</p>
A14	<p>14/3/22 – "Noise from the Paris House late into night" .On 13/3/22 at 2107 the complainant sent an email to BHCC and referred to making a noise complaint in January about the same Pub. They go onto say "field officer from the council then went to speak to the staff at the Paris House about their noise levels and the situation then improved. You sent me a noise diary in the post, but because the volume of the noise was now more tolerable and they weren't playing it <u>so loud past midnight</u> as often we thought there was no need to fill out the diary.</p> <p>However, over the last month it has gotten worse again. It is again extremely loud several nights a week and often past midnight (sometimes past 2 am). I have tried to call them to ask them to turn the speakers down. They usually don't answer, but once they did, the woman who picked up said -redacted - could not hear me, but I should call back when it's quieter and then hung up.</p> <p>I've just tried emailing them again but no answer. Could the council get back in touch with them again? Would you be able to send me another noise diary which I will fill out and get back to you. It's becoming intolerable, we cannot relax in the evening because it's so loud throughout our house and we can't get to sleep at a reasonable time. We have to wear earplugs to bed just so we can fall asleep." (Incident no 13)</p> <p>The complainant is disappointed that the council dealt with matters speedily previously and had hoped that the pub understood but it seemed they hadn't.</p>	<p>Page 32</p> <p>LULL AND THEN RESTART</p> <p>SLEEP</p>

<p><b>A15</b></p>	<p><b>14/6/22 - Paris House, loud music.</b> See task sheet.  Reference is made to officers visiting the area on the 16 June at <b>8 pm</b>.  They hear the noise of voices from the venue and saw a door was left open.  Jazz music started at 2015.  Initially the door was left open but closed shortly after the musicians started playing. It was opened and closed periodically during the performance.  <b>Noise noticeable from the street even with door closed.</b> Sound of saxophone and drums, playing instrumental jazz. Officers left the area at 20:30 hours. NB page 40 reference to <b>“several complaints have been made in relation to the level of this music.It needs to be established whether this is a noise nuisance .”</b>  Further notes re work in July. <b>On 9/7/22 14:51 hours officer contacts a complainant stating “my manager has reminded me that I am unable to work beyond my normal working hours in relation to this task, which means I will have to visit before 8 pm.”</b>  Reference is also made (page 35 - 36) to <b>31/7/22</b>. at 20:22 hours and refers to 2 officers visiting the complainant between 19:20 and 19:45 hours. <b>They noted the door of the Paris House was open when they arrived and when they left.</b> Music was playing and was initially slow jazz but by the time they left it was accompanied by drums and was slightly louder. Music could be heard from the complainant’s property but was not a statutory nuisance although the music was audible.The complainant accepted that the noise was not loud then but would like to proceed with a noise investigation and sound equipment to be installed (CH &amp; VH)</p>	<p>Page 36,39 and 40</p> <p>Page 39  <b>Submissions K 1.18 6.1.2</b></p> <p><b>Submissions K1.18 6.1.2</b></p>
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**B. 390 pages 2016 - August 2022**

Year and ref.	Description and comment	Page No
2016		
B1	<p><b>10/5/16 BHCC</b> visit pub to discuss complaint. Seems to be <b>about noise.</b>  <b>Licensing inspector’s report of 10/5/16 relating to a complaint. Refers to always security on Friday and Saturday from 8 until close. A sign for leaving the premises is quickly needed and 1045 outside seating is stacked. (Incident no 14)</b></p> <p>Inspection form refers to comp doing diaries so presume it was at least in part noise related .</p>	Page 235
B2	<p><b>11/5/16 BHCC</b> letter to PH (Tina as DPS) <b>re displaying clear signs, asking public to respect the needs of local residents and leave the premises and the area quietly. This will also be communicated verbally. (Submissions D 1.22.)</b></p> <p>At page 1 of Section B information is the Service request form relating to this.</p>	Pages 237-238
B3	<p><b>29/4/16 BHCC – PH – complaint re-“noise disturbance from recorded and amplified music played from speakers at an hour that the residents agree is unsociable. PH claim online to close at 11 pm and one would assume this is when the music would stop”. Unfortunately, they consistently play said music further into the night sometimes until 1245 -1am which Monday – Thursday, I don’t find to be acceptable.”</b> Resident not identified. In 4th paragraph officer unable to confirm if complaints are justified and will inform complainant of licensing hours. <b>(Incident no.15. )</b></p> <p>In paragraph 3 <b>“However, I would ask that you carefully monitor music volumes and think about what you could do differently to manage and where necessary reduce noise levels. Please take any appropriate steps to ensure that local residents are not unreasonably disturbed.”</b> Licensee therefore on notice that if this continues then consequences could be worse.</p> <p>Paragraph 6 warns that noise diaries and dates, times and type of noise are being taken and noise recording equipment may be installed.</p> <p>Paragraph 9 states BHCC’s duty is to assess <b>how much the noise is disturbing someone in the home and, crucially, how it is affecting the normal level of comfort and enjoyment that the average person can reasonably expect of that home.</b></p> <p><b>NB At page 240 distinction made between BHCC’s powers under the Environmental Protection Act and the Licensing Act 2002.</b></p> <p>The letter sets out the licensing conditions for the prevention of public nuisance regarding the monitoring of noise levels in and outside the premises and ensuring that both ambient sound and sound generated by recorded or live entertainment is at a level that does not constitute a nuisance.  <b>(Submissions Section A Paras 4.7 and 4.8)</b></p>	<p>Pages 239-240</p> <p>Licensee on notice</p> <p>Page 240</p>

	Towards the end of the letter, there is a reminder that <b>“it is extremely important you and your staff operate in accordance with your licence and all the conditions attached to it. “To help with the possibility of further noise complaints..... I suggest you contact me to arrange resetting of the noise limiter.” Did PH ever do that?</b>	NOISE LIMITER
<b>2017</b>		
<b>B4</b>	<b>10/4/17 New DPS written to re awareness of licence conditions. No more licensing visits until May 2018. Reminded staff should be fully aware of licensing conditions. Also informed it was a legal requirement to have both parts of the licence available at the premises. BUT apparently not aware on 13 August 2022 – see B76 below</b>	Pages 2-3
<b>2018</b>		
<b>B5</b>	<b>7/3/18.</b> Licensing inspection, 6/3/18 re need for signs re public nuisance and <b>respecting residents’ needs when leaving premises and area quietly.</b> Will also communicate verbally. <b>Reminded of this in B2 – 2016.</b>  <b>Licence condition to have such signs - why are they not already there?</b> Reference to OS. BHCC say must comply with more restrictive conditions re 2300.	Pages 4-6  Page 6
<b>B6</b>	<b>27/7/18</b> response from BHCC to Councillor MacCafferty (“PM”) re licensing conditions on premises within the area. <b>NB conditions on other licences to prevent noise nuisance to residents &amp; passersby; no drinks being taken outside after a certain time; liaison with neighbours; live <u>and</u> recorded music to be controlled by noise limiting devices.</b>	Pages 11-13
<b>2019</b>		
<b>B7</b>	Correspondence about CH & VH complaint in <b>January 2019</b> (page 26 – top) - reference to previous complaints by ourselves and a neighbour indicate lack of interest and understanding of the disturbance caused to the neighbours or their potential impact on their licence.(Previous complaint from CH and VH is when speaking to man outside pub see <b>CH statement Para 2.5 APP2 Sch 1 Pt A</b>  Copy of our report form is at top of page 26 and specifically refers to <b>“Video evidence available .”</b> ( third line from the end ).  The Pub’s response re closing just after 4:15 am. <b>“Certainly not open as late as 6 am” “Pub completely closed, empty and silent from that time onwards and CCTV will confirm it.</b> This is from <b>“the boss”.</b>	Pages 15-28
<b>B8</b>	<b>7/1/19</b> BHCC’s letter to PH refers to officers having <b>“a duty to investigate complaints”.</b> - even though the allegations <b>“were not witnessed by Officers.”</b>	Page 22
<b>B9</b>	<b>7/1/19</b> BHCC’s letter to CH states in para 3 page 25 it considers a review as a last resort and would only submit a <b>supporting representation</b> to a Review application where <b>“there is a history of</b>	Page 25



	<p><b>complaints, the evidence is clear or the severity of the incident deems revocation of the licence is appropriate.”</b></p> <p><b>CH’s statement Section 7 refers.(APP 2 Sch 1 Pt A).</b></p> <p><b>If Pub really was “completely closed, empty and silent from around 415” video clips suggest otherwise. APP 2 Sch1 Pt C</b></p> <p>The law imposes a duty on BHCC to investigate properly and take action to promote the licensing objectives.  <b>Why did an officer not examine the available evidence ?</b></p>	
<b>B10</b>	<p><b>31/1/19</b> BHCC tells us they do not intend to take further action. (<b>incident no 16</b> ). They had already been told the licensee’s letter was to “correct the verifiable and factual inaccuracies in the claims made by the complaints received.</p> <p><b>“So why not investigate it properly by looking at their CCTV evidence and our video clips? By not doing so BHCC allowed “the boss” to believe they accepted what he said even though they hadn’t investigated properly! CH statement Section 7.(APP 2 Sch 1 Pt A).</b></p>	Page 15
<b>B11</b>	<p><b>13/5/19</b> 1358 BHCC - PH re a complaint of noise after 11 pm, Email to complainant re procedure repeats review position as at 7/1/19 above</p> <p>Email to pub described as “letter – no action” p29. (<b>Incident no.17</b>)</p>	Pages 29-30
<b>B12</b>	<p><b>22/7/19</b>, BHCC say no letters being sent (presumably about complaints) because pubs and complainants all pursuing mediation.</p> <p>CH and VH were contacted by BHCC on 18 July 2019 re attending mediation .</p>	Page 36
<b>B13</b>	<p><b>7/8/19</b> CH email to BHCC EHL department expressing concerns previously set out (and which have continued into 2023) followed by BHCC’s response .</p> <p><b>1. Noise from Pub generally, and particularly after 11 pm.</b></p> <p><b>2 Noise from customers congregating outside pub until early hours of the morning and drinking.</b></p> <p><b>3 Pub doors left open so music and customer noise from inside becomes more audible.</b></p> <p><b>4 Noise nuisance getting worse. Night of 6/8/19 live music noise between 8 and 10 pm audible in house above TV when door is closed. (Incident no.18 ) .</b></p> <p>Email chain - correspondence between <b>Resident 1</b> and councillors -</p>	Pages 210 - 209
<b>B14</b>	<p><b>Email chain /correspondence between Resident 1 and councilors</b></p> <p><b>9/8/19 Resident 1</b> - Councillor Clare referring to correspondence going back to August – October 2017 (<b>shows how long problem has existed</b>) and refers to his letter of 26/7/19 dropped into neighbours. <b>APP 2 Sch 1 Pt A para 2.19</b></p>	Pages 204-205 DURATION

	<p>He is <b>frustrated because BHCC not getting back to him. Noise diary kept in 2019 – more concern with BHCC’s lack of response and the general view amongst residents is that too much live music at PH and it is often too loud.</b></p> <p>He refers to a noise diary being kept last year ie 2018 and someone setting up a recorder” in our flat” which ? picked up two weeks later. After much delay he’d discovered the ambient noise rendered the recordings useless. Gave further information and ? BHCC did not get back to him.</p> <p>At least unfortunate that recordings useless. CH’s <b>statement Paras 2.69 and 2.70 APP 2 Sch 1 Pt A</b></p> <p>He was of the view that he didn’t want to see the PH licence revoked but would just like to see them have fewer live sessions each week and fewer loud bands.</p> <p><b>Given the length of time this has continued – and been allowed to – this is no longer the view of all residents.</b></p>	BHCC
<b>B15</b>	<b>14/8/19 BHCC - CH -refers to BHCC’s SOLP being “much more robust now and much harder for Pub to get a licence now – especially as these premises are in our Cumulative Impact Area”. APP 2 Sch 1 Pt A para 2.57.</b>	Pages 208-209
<b>B16</b>	<p><b>15/8/19 PM –Resident 1</b> agrees it’s important to see previous correspondence. PM himself a previous sufferer of long-standing noise problems from a former neighbour. Hadn’t realised how seriously some residents have been affected because he hadn’t received any complaints. Queries if <b>Resident 1</b> asked if BHCC licensing team has sent a copy of licensing conditions to PH as a reminder the venue is being monitored which has worked in the past (referring to other licensees?).</p> <p><b>(Licensee expected to know the conditions under which he must operate and comply?)</b></p> <p>Also suggests a licensing visit; refers to the “queueing” condition; possible deputation to council committee or a petition; reference to stronger measures from LA and police “but any process needs to be driven by evidence.”</p> <p>In the previous paragraph he refers to “...licensing issues are affecting Other surrounding streets so it is likely affecting other less obvious neighbours too.”</p> <p><b>What he may not have known was that BHCC’s policy meant it would not take effective action without an officer witnessing an incident. Nothing came of deputation to council, committee or petition.</b></p>	Page 203
<b>B17</b>	<b>27/8/19 Resident 1– PM.</b> Reference to PH making no attempt to close doors during live sets in the evenings, particularly due to weather. Asking councillor to arrange a licensing visit.	Page 207

<p><b>B18</b></p>	<p><b>2/9/19</b> PM – BHCC– hoping the licensing visit wasn’t trapped by ongoing mediation (!! – <b>It was!</b>). Suggesting on any such a visit an outline of the current conditions should be given. (<b>? Licensee expected to know conditions under which it must operate?</b>) <b>“This definitely would appear to be an issue, especially around keeping the doors closed during sets, even though this is one of the conditions.”</b> ( In fact ,relaxed by s 177 &amp; 177A Licensing Act until 2300 ).</p>	<p>Page 206</p>
<p><b>B19</b></p>	<p><b>Not used</b></p>	
<p><b>B20</b></p>	<p><b>5/9/19</b> BHCC - PM Second para refers to additional method of ventilation is condition imposed consistent with OS and for that to be installed to allow doors and windows of pub to remain shut during live music. (<b>Submissions Section D Para 1.13(v)</b>).</p> <p><b>Has that ever been done? Or have BHCC ever checked it – if so why is there still noise even when the doors are closed?</b></p> <p>Refers to disapplication of live and recorded music conditions until 11 pm. Final paragraph refers to the sound limiter condition – “so it could be arranged so that noise levels can be set between the complainant’s properties and the premises.” “However, I am advised by ? this is not possible for live music”</p> <p><b>This is incorrect – BHCC’s own condition for three of the premises referred to above B6 (p11-13) specifically includes live music ie . Freemasons condition 8 Back Beat Bar condition 3 Revelator condition 11</b></p> <p><b>The condition attached to this licence does not distinguish between the two and is aimed solely at limiting noise from the premises OR is this BHCC stating it doesn’t enforce the live music aspect? (If so ,it is not consistent with the conditions on the three premises above ).</b></p> <p><b>Independent sound expert has confirmed that it’s perfectly appropriate to fit a noise limiting device for live music and other LAs e.g. Torbay’s “Control of Noise from Licensed Premises” guide is attached at APP26 and is just one of many examples available. It contains good advice and at page 3 gives details of different types of electronic noise limiters which clearly can be applied to recorded and live music and sound systems generally .</b></p>	<p>Page 206</p> <p><b>APP 26</b></p>
<p><b>B21</b></p>	<p><b>9/9/19. Resident 1 -</b> PM querying if anything heard back from licensing – says <b>PH making very little effort to keep doors closed. “The evidence suggests unless we badger them – and I’ve run out of energy for that – they just don’t care.”</b> I hope you can help. (Incident no 19.)</p> <p><b>This is at a time when Residents 1 and 2 were awaiting mediation as were CH and VH and it is suggested that his comments show a long-standing theme of these and other complaints with the licensee apparently not interested in addressing residents concerns and perhaps “playing the system” by initially</b></p>	<p>Pages 196-197</p>

	<p>responding robustly to divert; prevaricating when taxed; becoming quieter for a time in the knowledge its premises may be under scrutiny from enforcement officers; and then carrying on as before – regrettably due to a poor system of enforcement. (APP2 Sch 1 Pt A paragraph 7 re BHCC’s enforcement ).</p>	
B22	<p>10/9/19 12.11 PM – Resident 1. He refers to information sent to him on 5/9/19. States “I’m pushing back on the issue of noise limiters for live events – which just seems absolute madness. Would be interested in hearing any thoughts from you both too.” (i.e.,Residents 1 and 2).</p>	Page 190
B23	<p>10/9/19 21.56. Resident 1 – PM. Agrees with Councillor this is not an issue for licensing as the condition re ventilation only applying after 11 pm is “mad“. It means they can play live and recorded music as loud as they like before 11 pm (echoing what CH told by person opening pub in 2018).APP 2 Sch 1 Pt A Para 2.5.</p> <p>He gives another example that night of a live band making a lot of noise and very little effort being made to close the doors. (Incident no.20 ).</p> <p>He also questions why BHCC thinks it is not possible to limit live music. Is it because it varies so much? See final para of comments re B20 p206 above. Also asks what a “risk rate” inspection is.</p> <p>The Applicants’ submission is that <u>this</u> is how this licensee chooses to operate its business. If, because of the premises location, layout and construction and surrounding residential area, it simply cannot stop disturbing residents contrary to the licensing objective of the prevention of public nuisance, then it should either stop completely or be properly controlled to prevent this source of noise nuisance.</p> <p>Such control could include an accurately set noise limiting device for both live and recorded music and disapplication of the s177 &amp; 177A conditions of the Act so as to ensure both forms of music cease earlier. Further conditions are referred to in the Submissions in Section L para 10.and where it is also suggested that a full inspection of the current state of the premises and its suitability for the licensable activities previously authorised and presently undertaken is properly assessed.</p> <p>The LP should consider the advice given by the LGA as to the practicality and efficacy of subjecting licensed premises to a plethora of conditions when the truth may simply be that the premises are inherently unsuitable for permissions previously granted. (Submissions Section B 1.49 and Section L 1.22.</p> <p>Has, for example, the new ventilation system been fitted? Has BHCC ever checked?</p> <p>Given the length of time this has gone on for and the efforts made by many residents to seek resolution, it is respectfully suggested that this issue now needs resolving once and for all.</p>	Pages 189-190
B24	Not used	

<p><b>B25</b></p>	<p><b>28/9/19 23.31 Resident 1 – PM. – NB time this sent.</b> He complains about that Saturday night <b>after</b> 11 pm when PH do not have their doors shut and “the music is <b>thumping</b>. I’ve done the usual thing and filmed the noise “. (<b>Incident no.21</b> )</p> <p>Refers to a meeting with (redacted but probably CH/VH) and PH next week re-the mediation. Asking PM to provide him with information re what happened on previous inspections, what nonconformities were allegedly resolved, and <b>why – doesn’t think that noise limiters are of any use</b>. He has then added this comment “<b>I don’t want to come to the conclusion that the council’s approach, in respect of this issue at least, is limited to a sympathetic ear and kicking the bureaucratic can down the road in the hope that the issues just disappear or the complainants simply give up because the whole thing is unspeakably dull and life is too damn short.</b>” CH statement Section 7.APP 2 Sch 1 Pt A.</p> <p><b>This is a reflection of the Applicants’ feelings. None of them wish to move away (as Residents 1 and 2 did) and would not need to consider it IF the licence provided proper protection for them and was properly observed and enforce or removed.</b></p> <p><b>APP15</b> contains less redacted copies and shows CH concerns on the approach to mediation – <b>CH statement APP 2 Sch 1 Pt A Para 2.35</b></p>	<p>Page 189</p> <p>Effect of BHCC enforcement policy on residents</p> <p><b>CHECK REF.</b></p>
<p><b>B26</b></p>	<p><b>4/10/19 PM - BHCC</b> “Our residents on Cambridge Road are <b>really suffering</b> here and I think this raises really legitimate questions “which he then goes on to list. “<b>No noise limiters for live music seems farcical</b>. Please can you help with their queries.” Will visit their property to hear the noise level and wants to support them.</p>	<p>Page 188</p>
<p><b>B27</b></p>	<p><b>8/10/19 CH - BHCC</b> detailed complaint re-noise nuisance concerning last Saturday night/Sunday morning (5/6/10/19). Page 33 – response in 20 minutes from BHCC states as undergoing mediation they won’t get involved but to contact them if “licence conditions are continuing to be breached and I can arrange to revisit the premises” 8/10/19 “no visits” noted. (<b>Incident no 22</b> )</p> <p><b>APP15 – this email is included there</b></p>	<p>Pages 34-36</p> <p>Page 33</p>
<p><b>B28</b></p>	<p><b>9/10/19 11.47. CH – BHCC</b> referring to <b>14</b> occasions between 6/7/19 and 6/10/19 when disturbed. At 12:18 BHCC replied saying there would be no visit because mediation was pending. <b>CH’s noise diary for July - October 2019</b>. NB point 2 and details of disturbances after 2300 and four at 1 30am.</p> <p>Also included in <b>APP15</b></p> <p><b>A schedule of noise disturbance was compiled and dated 18 October 2019 and sent to BHCC showing disturbances from January 2019- 5/6 October and is at APP18.</b></p>	<p>Pages 167-168</p>
<p><b>B29</b></p>	<p><b>14/10/19 15. 42. CH - BHCC. (Day of mediation and shortly after its conclusion)</b>. States PH do not accept there is a problem or that they may be in breach of licensing conditions. Requests a meeting to discuss matters further and show them some of the video footage relevant to his concerns. <b>APP16</b></p>	<p>Page 162</p>
<p><b>B30</b></p>	<p><b>15/10/19 8.24</b> BHCC to CH saying, “I am sorry that mediation was unsuccessful.” Author of email away for two weeks after 16/10/19 and a meeting was subsequently fixed for following day.ie 16 October</p>	<p>Page 161</p>

<p><b>B31</b></p>	<p><b>16/10/19</b> BHCC –internal email re visit to PH on same day.. NB there is an error in this email (page 158 point 1 bottom of page ) where it states that the complainant “has seen the designated premises supervisor carrying out inspections outside the premises.”  <b>This is a misquotation B27 page 35 point 1;B32 ;and B33 page 156 14 lines up refer.</b>  <b>LINKED TO B32</b></p>	<p>Pages 158-159</p>
<p><b>B32</b></p>	<p><b>16/10/19</b> – BHCC letter to PH re-noise complaint. Referred to at <b>B31</b>. Paragraph 3 says the complainant is still being disturbed by noise from music being played in the premises and also from people outside them. The officer has met with the complainant. The complainant says that there have been 14 occasions since July where this condition was breached This is CH’s complaint and at page 160 this letter misquotes what we said.by saying we had seen the DPS carrying out inspections outside when in fact we had said we had <b>NEVER</b> seen that .- page 165 point 1.  <b>LINKED TO B31</b></p>	<p>Page 159 – 161</p> <p>Page 160</p> <p>Page 35 and 165 (duplicates)</p>
<p><b>B33</b></p> <p><b>NB This is similar to but not exactly the same as C11 so some of the analysis is different .</b></p>	<p><b>29/10/19</b> 13.39. PH’s response to a joint meeting referred to “last week”. (no note of what discussed in papers) reference to mediation “concluded really positively and was very constructive”, adds it was “very much live and active”. Also reference to false claims refers to someone previously remonstrating with a member of staff in October 2017, (<b>not CH and VH</b>) and goes on to refer to a meeting on a Sunday and someone sending an unpleasant email. This was not <b>CH and VH</b> and we were not the people who “stormed off“.</p> <p><b>CH’s Statement paras 2.6 - 2.9 and 2.37- 2.48.APP2 Sch 1 Pt A</b></p> <p>Re CH’s complaint in January 2019 licensee convinced pub closed well before that and appears to assume that because it wasn’t taken any further, his claims the pub was closed were accepted <b>B.10</b> and <b>CH statement Para 2.14 and 2.15.APP 2 Sch 1 Pt A</b></p> <p>Not fully investigated by BHCC see <b>B7, B9 and B.10</b></p> <p>This links to <b>B27 and B31</b> re misquotation of CH’s email to the licensee who is misled about what residents have said. It is frustrating to be misquoted. Is this a by product of BHCC’s policy ie the details of the resident’s complaint are unimportant because they will not take action until an officer witnesses the problem?.</p> <p>If BHCC subsequently relied on the resident’s evidence at a hearing misquoting the resident in this way would not seem very professional !</p> <p>The comments below relate to the licensee’s comments in this email response to BHCC but they are also referred to in CH’s statement at <b>APP 2 Sch 1 Pt A Paras 2.37 – 2.48 and 5.10.</b></p> <p><b>Re pages 156–157 I didn’t say the witness was independent but simply that there was another witness apart from ourselves. We stated it was our son who was down from London. We were very surprised at what noise was being generated from the PH. We had no doubt PH was the sound of the noise otherwise we wouldn’t have complained– and neither would others as the history shows!</b></p>	<p>Pages 154-158</p> <p>BHCC</p>

	<p>It is insulting to suggest, as PH do, at page 157 “We believe they are lashing out and blaming the Paris House for all the problems and the ills that exist in the vicinity of their home.” It is a gross exaggeration and suggests that residents who complain are incapable of distinguishing the source of one noise from another! These beliefs would be better from someone who had actually tried to engage with the residents at mediation rather than insisting they were promoting the licensing objectives and either belittling or denying their complaints .</p> <p>At the mediation, we did refer to general drug dealing in the area and what VH said was that she had seen it a number of times. The comment wasn’t specifically made about PH and when asked if it was she said honestly that she couldn’t be sure. Yet this is characterised as an attempt to “smear” the pub with a suggestion the remarks made by residents are defamatory. One of the defences to any such action is justification and the residents attended mediation because their complaints were genuine.</p> <p>What this letter states about the homeless hostel is largely correct but CH’s statement makes plain he can distinguish between noise from the pub and noise from the hostel or its inmates - and if there was any doubt about the source then no complaint was made about that noise. The statement also refers to the hostel’s management having been changed for at least the last 18- 24 months so that none of the previous problems about noise from hostel residents have occurred, and we – and others – are still being disturbed by these licensed premises and its operation. (Para 2.25 APP2 Sch 1 Pt A)</p> <p>Despite what is said about the customer profile of PH ( p 156) in CH’s view it is fairly wide ranging with young and old being catered for with different groups attending on different evenings with a mixture of ages on most nights.</p>	<p>Complaints to Police 101 in 2022 refer to potential drug dealing and this appears to be getting worse over the last six – nine months.</p>
<p><b>B34</b></p>	<p><b>11/11/19 Resident 1</b> – PM and others suggesting a meeting and refers to “Ben” who is believed to be <b>Resident 1 and 2’s</b> small son and the child about whom <b>Resident 2</b> spoke at mediation being <b>repeatedly awoken by noise from PH</b>. This email is a response to one of 7/11/19 from PM suggesting a meeting to “discuss the ongoing situation at the Paris House”. <b>If everything was satisfactorily resolved and ongoing with Resident 1 and 2 as PH suggest then why was he still keen to meet? Applicants submit they weren’t satisfied with the position.</b></p> <p><b>See Resident 1’s emails to CH. APP 19</b></p>	<p>Page 153</p> <p>SLEEP</p>
<p><b>B35</b></p>	<p><b>18/11/19 CH - PM</b> and others. Relevant to PH’s response of 29/10/19 above. Reference to being troubled less after a visit to the pub in January 2019, and <b>then the problem starting up again</b>. Not complying with condition re keeping doors and windows closed except for access and egress and the close and clear condition which is not being observed i.e. not always clearing the outside tables and chairs away by 11 pm with video footage referred to which shows benches occupied at 23.22 on 25/10/19 and people congregating outside the premises on 30/10/19 23.15 and on 16/11/19 at 23.26 (this was at a time when CH believed the clear and close condition referred to the area outside i.e. the whole of the area immediately surrounding the pub</p>	<p>Pages 150-151</p> <p>LULL</p>

	<p><b>Submissions B.1.10 (iv)</b> re licensee’s responsibility within the “vicinity” of its premises .</p> <p>Reference also made (p150 -151) to DPS at mediation denying any breach of licence condition even when told of video footage showing more than forty previous occasions, some of which were understood had been shown to him and the licensee previously. Told him also that I understood they’d had at least three letters from enforcement officers – about which both representatives appeared vague. Our concern is that after a break all problems will start again.</p> <p><b>CH statement para 2.51 APP 2 Sch 1 Pt A and APP 20 which confirms that two days after the mediation BHCC officers confirmed some of CH’s videoclips had been shown to the DPS and more than one letter about noise complaints had been sent by BHCC to the licensee.</b></p>	
<p><b>B36</b></p>	<p><b>18/11/19–21/11/19</b> video clips submitted to BHCC by CH only for them to say they cannot see the time and date shown on them. Emphasising the point that that information can be seen on my iPad and failure to understand why ones sent them don’t show the same. Making point that in any event this evidence is corroborative of what I saw and would be admissible if I were to give evidence. Refer to belief that BHCC officer had visited the pub on at least two occasions and shown them video clips re February and March 2019 in the hope that, when they saw the problem, they would deal with it, but, as shown by more video clips, the problem continued. DPS at mediation was vague about whether he had seen the video clips and denied having any letters from BHCC about problems caused .PH management must have known nature of complaints - otherwise why attend mediation?</p> <p>Penultimate paragraph is a plea for BHCC to become involved. If visits have been made and letters sent and the problem continues, then consideration should be given to the next steps. Otherwise, licensee may decide the revenue generated by breaching licensing conditions is sufficient to warrant the risk of being caught doing so. <b>(And, as later discovered, if officers are not normally on duty at night to witness incidents complained of many times by residents - without which no action will be taken - the chances of being so caught are extremely limited!)</b></p> <p>In such a case the only ones who suffer are the premises’ neighbours who are meant to be protected by the licensing conditions. Asking to arrange a time when CH can show them the video clips so they can see they <b>are</b> timed <b>before</b> any future action is taken.</p>	<p>Pages 148 – 150 and pages 141 – 143</p> <p>Page 142</p> <p>Page 143</p>
<p><b>B37</b></p>	<p><b>27/11/19.14.33</b> BHCC - CH answering points in email of 21/11/19. States premises <b>have been reminded about clear and close position</b>. Suggested some video downloads are no longer available (I could have sent them again had I been asked) and takes issue with some of those that have been seen whilst also accepting that they <b>did</b> show evidence of people seated after 2300 but states insufficient evidence to take court case or a review.</p> <p><b>?? Is “reminded” really an appropriate step given the history ?</b></p>	<p>Pages 134-135</p>



	<p><b>DID NOT say they would only take action if an officer witnessed it. If that was so, then why did no one suggest officers coming out at that time? Did not take up offer of viewing the video footage CH had either</b></p>	
<p><b>B38</b></p>	<p><b>29/11/19.</b> 15.42.CH to BHCC refers to enquiries made and contends the video evidence is admissible (once more). BHCC is saying that some clips relate to customers standing by the front door who are not in the areas enclosed by the dotted line on the plan, which are the only areas covered by the condition relating to closing and clearing “the outside area” by 2300. As long as a person is congregating with others or smoking <b>outside</b> the two table areas marked on the plan <b>that is not a breach of condition (!)</b>. BHCC ‘s annotated responses are on the email of 29/11/19 and CH, having queried the value of the licensing visits so far made to the pub is told that visits took place in 2018 and BHCC officer states “<b>written and verbal communications between myself and the premises took place throughout last year</b>”.</p> <p>Re the sound limiter BHCC’s response is that it can be enforced as it is a licence condition and is usually set in the premises when listening from the complainant’s property. “It is likely this was done at the time the licence was first issued”. The only complainant then was the representor whose letter necessitated the 2005 LP hearing. It is not known where that person lived.</p> <p><b>Why were no checks made then as to whether it was properly set or working ?</b></p> <p>Not known if the level was set from our property or any of the other Applicants. CH and VH have owned their property since November 2004 and no one has visited us for that purpose.</p> <p>Reference made to disapplication of conditions until 2300 (top p134 - refers to LMA 2012 and DA 2015. <b>Submissions Section A 4.7; B1.25-1.27.</b>) No reference then or at any subsequent time to possibility of BHCC requesting a review to better protect residents as original conditions were designed to.</p> <p>Assurance given BHCC are taking our concerns seriously, and will be making a visit to the premises “and go thoroughly through the licence.” <b>(Is it appropriate that licensee needs to be reminded - yet again - what conditions it is subject to without firmly pointing out what other enforcement options are available for non-compliance or even taking one of them ??)</b></p> <p>BHCC will liaise with Police Licensing Unit to see if they will monitor after 11 pm “due to our resources, we do not do evening monitoring and visits as much as we used to.”</p> <p><b>The Applicants suggest that inflexible adherence to an ineffective policy does not amount to a proper system of enforcement.</b></p> <p><b>CH statement Para 7.3 and 7.9 – 7.12 APP 2 Sch1 Part A</b></p>	<p>Pages 132-134</p> <p>Page 133</p> <p>Page 134 para 4</p>

<p><b>2020</b> <b>B39</b></p>	<p><b>9/1/20.16.41.</b> PM – BHCC, he made a number of points raising concerns he heard at a meeting with residents and the answers have been noted on his email which raises concerns from a meeting with residents .</p> <p>The following points were raised: –</p> <ol style="list-style-type: none"> <li>1. Noise attenuator and licence conditions. Only in force after 11 pm. <b>This vagary is central to the complaints from the residents.</b>” BHCC say that is correct .<b>(Nothing said about review to disapply the suspension of these conditions at 2300 i.e. to resurrect the protection originally given to residents in 2005 . BHCC</b> say licensee still has a duty to ensure noise from premises does not cause a statutory nuisance - redacted ( ? Env Health) -would investigate.</li> <li>2. Licence conditions and compliance. Noise escaping from premises. PM refers to noise limiting procedures such as double doors, baffling or a porch inside the premises to double protect noise escaping. BHCC’s response is the premises say re a porch that will be a breach of fire regulations. <b>Anyone at BHCC ever check if that was so?</b> BHCC say can’t insist they put sound insulation in as that is not a condition on the licence. <b>CH’s statement Para 7.7 (re para 6).APP 2 Sch 1 Pt A - IF BHCC</b> had sought a review based on the residents’ complaints this could have been considered .</li> </ol> <p><b>What then is the purpose of a review? Isn’t it to ensure the licensing objectives, including the prevention of public nuisance, are promoted? They could explore the viability of addressing the residents’ problems by seeing whether or not the premises could be improved/adapted so as to reduce/minimise the noise nuisance.</b></p> <p>BHCC suggest that they have made a referral to the environmental protection team who “<b>may</b> make suggestions to reduce noise breakout but that is not a licensing function.” <b>Were the environmental protection team actually engaged to assist and, if so, what did they report?</b></p> <p>Further confirmation is given that the writer and her manager will visit the pub to go through the licence and ensure they are fully aware of all conditions. <b>(As a licensee with this history of complaints, it would be very surprising if they weren’t. It is submitted that any responsible licensee would know what the conditions were and should operate within them).</b></p> <ol style="list-style-type: none"> <li>3. “Outside area” which BHCC says refers to the two areas marked on the plan as being the “outside area. “( in fact marked as “outside table area”) and that, as long as their customers are not congregating/smoking in them, they are not in breach of the clear and close condition. They will contact the councillor once they have spoken to the highways department.</li> </ol>	<p>Pages 129-130</p> <p>Page 129</p> <p>Page 129</p> <p>Page 129</p>
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4. The councillor said – **“Why is a small venue in a densely residential area being allowed to have live music virtually every day of the week?”**  
**BHCC refer to deregulation of music until 11pm but, once more, do not refer to the power to reapply the regulation by means of a review and in order to promote the licensing objectives. Were BHCC not then aware of that power? If not then why not ? If it’s officers were, the only reason for not doing so was because BHCC policy insisted no such action could be taken without a nuisance being witnessed by an officer The problems thereby created are set out in the submissions at Section 7 CH’s statement APP 2 Sch 1 Pt A**  
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5. PM states he has received **“routine evidence of repeat breaches of conditions... It strikes me the LA needs to up its game in terms of the advice and warnings it is prepared to issue to the venue.”** (This highlights the points made earlier about the inadequacy of BHCC’s enforcement policy and made in the **Applicants’ Submission Section F 1.9 – 1.28 and CH’s statement section 7 – APP 2 Sch 1 Pt A**

**Although the licensing team had received complaints from at least two separate residents over the last two years, they had written to and visited the premises on various occasions and were aware that a mediation was taking place (but no longer with CH and VH which they were told on 18/10/19). BHCC’s response to this says it is “difficult when we receive intelligence from residents which is not witnessed by authorised officers – we can notify the premises that allegations have been made and give advice accordingly but to take formal enforcement action we need more concrete evidence”.**

**This means from officers who are not on call and only work after hours, which is usually not after 8 pm and only after 11 pm by special arrangement.**

**There is no system of Call Out, even after repeated complaints by residents which, it is submitted, means that residents are wasting their time in making complaints because all that happens is BHCC will write or visit the premises and take no further action, unless an officer actually witnesses something which, realistically, is very unlikely. Speculative enforcement at best and a significant waste of resources by coming out without receiving a specific complaint for that day in the hope that, because there have been noise complaints on the same day of the week PREVIOUSLY, they might just witness a noise nuisance this time!**

**Having received complaints they will have notified the Pub in advance, thereby rendering it even less likely that a noise nuisance will occur as the management are then on notice of monitoring by enforcement officers who may be in the area.**

Page 129 – 130

Page 130

BHCC policy

Similar to B67 – 5<sup>th</sup> para under point 3 of analysis

	<p>BHCC add that they will make another visit so that the Pub is aware that complaints are still being received and there are still concerns from local residents.</p>	<p>BHCC policy</p>
<b>B40</b>	<p><b>17/1/20.</b> 15.37. CH to BHCC. Further suggestion for meeting so officers can be shown video clips. Pointing out re-clear and close condition that their interpretation doesn't include the two benches and making other points why this interpretation is incorrect. Smoking policy – surely customers should not be congregating outside after 11 pm, making a disturbance whether they are in or outside the table areas? CH previously told that the video clips produced had been shown to PH management on two separate occasions by BHCC officer Jim Cosgrove after initial complaint in January 2019.</p> <p>Querying whether there was a visit in 2019 and video clips shown to management? Pointing out that PH representatives appeared to know nothing about visits or correspondence and that either what BHCC says is true and they were simply being dismissive, or they really didn't know about our concerns - in which case why? Re the noise attenuator – CH made reference to <b>Resident 3's</b> concerns about not only himself but the welfare of the staff and customers inside the premises due to the volume. <b>Question whether regular checks have been made to see if the noise attenuator is still on the premises and being used. Has the level it is set at been checked? If so, was it set at a proper level? (or having been originally set at the correct level, has that level been changed for any reason?)</b></p> <p><b>See APP29 and CH's statement Section 9 generally and particularly Para 9.8 onwards .- APP 2 Sch 1 Pt A</b></p> <p>Additional comments made about notices being legible to customers outside the premises about being quiet after 11 pm. Pointing out concerns re close and clear condition and that if enforcement officers attempt to enforce it as interpreted it could be difficult to prove a breach.</p> <p><b>Concerns expressed re-BHCC approach. Suggested they seem to be looking for reason as to why no action should be taken, and to interpret the condition in a very favourable and limited way to the licensee, the net effect of which does not protect residents suffering as it was meant to and which will lead to further nuisance to residents. (As it has done as proven by subsequent events!) Submissions F 1.9 - 1.28 and 1.40.</b></p>	<p>Pages 120-122</p> <p>Page 121 Noise attenuator</p> <p>Page 122</p> <p>Page 122 BHCC policy and Interpretation of close and clear condition</p>
<b>B41</b>	<p><b>21/1/20.</b> BHCC - CH. Refers to meeting with DPS and owner and 119 -120 discussing the licence conditions, complaints received by licensing and environmental protection team and action to prevent further complaints.</p> <p>A claim is made that the mediation process had finished and <b>all</b> parties involved are meeting informally on a regular basis (contrary to what BHCC were told by CH in an email (<b>APP16</b>) and at the meeting on 16/10/19 nothing had been said to suggest that CH and VH were involved in such informal meetings and we were not <b>APP21</b>).</p>	<p>Pages 119-120</p> <p>BHCC incorrect Statement that all Parties engaged in mediation</p>

	<p>It was said there were no current noise complaints and BHCC's legal department had been asked for their interpretation of the condition and the officer would respond in full when their views were known. Reference was made to a visit to the premises on 20/1/20. Drinks were taken outside by smokers but there was no condition on the licence about that.</p> <p><b>(If that was causing a nuisance did anyone think to take the matter to review for that and further promotion of the licensing objectives, these changing circumstances and the repeated complaints justified?</b></p> <p><b>Submissions B 1.25-1.27 and CH statement Para 7.7(re para 6). APP 2 Sch 1 Pt A .</b></p> <p>BHCC had been told the next mediation meeting was in March.CH and VH not notified about that. Pub said they "were keeping in touch" with residents – presumably only <b>Residents 1 and 2..</b> They felt we hadn't wanted to engage from the start (see email exchange between <b>Resident 1 and CH</b> after mediation regarding behaviour of licensee's representatives <b>APP19.</b>) .</p> <p>PH have stepped up door closing policy, no live music after 10 pm. DJ music Friday and Saturday 9 pm – close (<b>licensing hours allow them to continue until 2 30am FOIA page 288.</b></p> <p>Sound limiter set when operating as the Juggler. <b>Did anyone actually check it at the meeting with PH?</b></p>	
<p><b>B42</b></p>	<p><b>27/1/20.</b> 12.15. BHCC lawyer ? –BHCC officer ? Copy minute of LP hearing in September 2005 supplied (pages 108–109) with covering email.</p> <p>This refers to a lawyer discussing it with another lawyer who may have been at the actual panel hearing in 2005 and who had located the minutes referred to.</p> <p>It is said the minute is short because there were many applications dealt with in one session. (<b>Did speed affect the drafting of the conditions?</b>)</p> <p>The advice is maintained that the close and cleared condition relates to the outside table areas <b>only</b> and the concern then was to ensure that the seating area was not available to customers after 11 pm and the tables and chairs were removed from them.(<b>NB No reference made to the seating area provided by the benches.</b></p> <p>But the minute at 191.2 (page 109,) states that the objection the LP had received concerned an extension of hours which would lead to a nuisance from and <b>outside the premises.</b> From the representor's letter he was concerned much more with what went on outside and never mentioned the outside tables <b>AT ALL.</b> The description given in the licence application for the premises is in the <b>Submissions Section K Para 1.2</b> and refers to "patio seating on the highway". The minute of the condition itself <b>does not say the "outside area" means the two "outside table areas" on the plan.</b> The Applicants' argument is as already stated in CH's legal document - <b>APP 7</b></p> <p>NB. The minute said at paragraph 191.3 that air-conditioning would be installed. <b>Has it?</b> It was claimed on behalf of applicant (presumably the</p>	<p>Pages 108-109</p>

	<p>outgoing licensee) that noise from outside the premises was from other establishments and not his. There is no record of him saying from where <b>(NB this is a claim made latterly by the current licensee -possibly after receiving this information from its own FOIA application)</b></p> <p>The lawyer goes on to say it leaves the possibility of people standing outside smoking and drinking on the pavement after 11 pm and states there is “no condition, for example, that customers may not take drinks outside the premises.” <b>The implication from that is that there could be!</b> - another consideration for a review to promote the licensing objectives.</p> <p>The lawyer goes on to say that “if noise and disturbance is being caused by customers on the pavement after 11 pm, then clearly <b>that should be investigated and is a cause for concern.</b>” <b>BUT given BHCC policy and its restrictions it is very unlikely that will be investigated for all the reasons given</b></p> <p>The reference is also made to complainants having the right to call for a review if they are not happy but this advice reckons without BHCC’s enforcement system and its inbuilt handicap of being able to witness the problem – without which it will not allow further enforcement steps to be taken .<b>Submission F1.9 - 1.28 and CH’s statement section 7. APP 2 Sch 1 Pt A</b></p>	BHCC policy
<b>B43</b>	<p><b>28/1/20.</b> 11.20 BHCC – CH. Setting out advice on 27/1/20 above and enclosing copy of minutes of 2005 hearing .Reference made as to whether there were any further noise complaints and a statement that BHCC has spoken to ? and that ? does not have an outstanding noise complaint – the mediation has been successful.(presumably relates to <b>Residents 1 and 2)</b></p> <p>Third paragraph from the end – discussed with DPS and PLH how they monitored customers outside and where they stood. They do allow customers to take drinks outside and BHCC suggested it may encourage customers to stay outside longer. There is no condition in the licence to prevent that.</p> <p><b>Consideration could have been given to one such as “No drinks to be taken outside except to outside table areas and only a maximum of X persons sitting on chairs, benches etc - but there are enforcement issues with that because of BHCC’s policy of only taking action after an officer has witnessed a problem.</b></p> <p><b>The problems caused by the noise caused by customers staying outside longer and later could be prevented by closing the “outside area” at an earlier time and defining its area to include the area immediately outside the PH contiguous with the premises and bounded by the pavement kerbs on WR and BSE.This would overcome the difficulty of enforcement of and compliance with the condition as presently interpreted .</b></p>	<p>Pages 100-101 Minutes of 2005 Hearing</p> <p>Page 101</p>
<b>B44</b>	<p><b>29/1/20.</b> CH - BHCC 17.32 on assumption there is no more evidence to show him (request repeatedly made) CH set out his argument on the interpretation of the condition to close and clear condition. <b>APP 7</b></p> <p>Page 91 final para point 3 again asks to see any further evidence BHCC have about the condition’s interpretation.</p>	Pages 89-91

<p><b>B45</b></p>	<p><b>30/1/20.</b> 11.40. CH to BHCC informing them he has looked at minutes of the LP and the minutes from other premises' decisions. As a result sets out further argument re interpretation of conditions.</p> <p>NB .A number of specific conditions imposed on other liquor licences by LPs in 2005 were referred to and included - At the same LP meeting on 19/9/05, conditions referring generally to "external area" and "outside area"  "customers not allowed to take drinks <b>outside the front</b> after 2200;</p> <p>Specific use of words to define particular areas e.g.  " garden area" cleared and closed";  "both outside areas to be closed and cleared ";  "outside garden area shall be cleared and closed ";  and "smokers will be allowed in the courtyard area until 2100 when the courtyard will be closed".</p> <p>These show the correct use of words to show a <b>general</b> area by the use of terms like "external", "outside" and "front" and more <b>specific</b> terms to define particular areas such as "garden area" and "courtyard"  <b>Thus "outside area" is a general and not a specific expression ,so supporting the interpretation that the larger "outside area" is what the original condition meant .</b></p> <p><b>Concluded with offer of meeting to save time – never taken up.</b></p>	<p>Pages 88-89</p>
<p><b>B46</b></p>	<p><b>4/2/20.</b> 16.26 BHCC – CH stating BHCC have answered his concerns as best they can and wish to bring correspondence to an end. As a result, CH wrote the following day (5/2/20), setting out the background and querying whether they were really saying they would not or could not ask the legal department to explain its advice.  This was acknowledged on 10/1/20 when they said they would pass his email to their legal team.</p>	<p>Pages 69-70</p> <p>Page 59 - 60</p>
<p><b>B47</b></p>	<p><b>11/2/20.</b> 6.19 CH - BHCC stating the legal arguments supporting his conclusions have been set out to enable anyone considering them to follow his reasoning. Making a point that most of the problems have occurred on Friday, Saturday and Sunday evenings but not exclusively so. Last year the problem got worse when the better weather occurred, and our concern is that the licensee complies with the licence conditions.</p>	<p>Page 59</p>
<p><b>B48</b></p>	<p><b>19/2/20</b> 16.04. BHCC – CH - repeated the previous advice on a common sense basis – "in licensing terms "outside area" does not mean the whole of an area outside the premises, as it will be difficult to define and potentially includes a space beyond direct control."  It is submitted that the "outside area" can be made to mean exactly what the LA defines it to be – within reason and so long as it is clear to everyone what its exact meaning is - so that it can be properly observed and enforced! There are two alternatives as to what is the "outside area" of this pub set out in the submissions and, using either one, a more appropriate and enforceable interpretation of the condition can be achieved for the reasons given. <b>Submission Section D. Para 1.19.</b></p> <p>The lawyer refers to the s182 guidelines and the "dedicated external areas."</p>	<p>Page 58</p>

It is submitted that this analogy is flawed because there is effectively one outside area to this small pub i.e., that which is bounded by the pavement edges with Western Road and Brunswick Street East. The “dedicated external area or garden” referred to in the guidelines is normally one space which is easily definable and therefore conditions can easily be applied to it. **See comments under B45 above .A general term has been used here . If the LP in 2005 meant to define the area to be closed and cleared as BHCC say it did then a more specific term would have been used.**

In this case BHCC’s lawyers’ interpretation is that, without any other reason but the claimed “common sense” argument different conditions will apply to each part and not all of which are clearly defined i.e.

The two outside table areas which are not marked on the ground;

The two benches attached to the side of the pub but which were not included in the original advice- and were not even marked on the original plan in 2005

and

the rest of the area i.e. what is left without the above table areas and benches.

Splitting up an area in this way **creates problems** for both licensee and enforcement officers e.g. when the two outside table areas are cleared and closed the lawyers say those areas **remain** closed to the public. Once the tables and chairs from there are stacked then it is possible for customers to stand where they **once were**. As the areas are not marked on the ground it is at least **very difficult** for a licensee or enforcement officer to know whether someone is standing inside a now closed area or outside it. If people continue to occupy those areas the aim of the condition is defeated – even on BHCC’s interpretation.

As far as the lockable benches are concerned when they are folded and locked it is still possible for people to sit on an arm or lean against them. The presence of people doing that attracts others to the same area so, again, an area meant to be closed (as now interpreted) has an uncertainty as to the observance or enforcement of the condition applicable to it.

The **rest of the area** which is literally and obviously the “outside area” of the pub (and the **very words** used by the LP in 2005) **remains open** and the source of noise nuisance which was **one of the two main reasons** why the representor whose letter instigated the LP hearing in 2005 complained. **Thus, BHCC’s interpretation enables the very condition imposed by the LP addressing those concerns to be undermined and weakened. (APP4 FOIA pages 244-245 - Representor’s letter)**

This is in spite of the condition relating to queueing which was aimed at minimising the level of noise and the length of time spent by those queueing to enter. It is presumed this condition has also been disapplied by BHCC as relating to music (not obviously ( **disapplied by s177A if it relates to live or recorded music or both s177A(2) Act** ).



	<p>A rule of legal interpretation is that in certain cases the lesser includes the greater - otherwise known as the <b>a fortiori</b> argument i.e. an argument that is based on a stronger one.</p> <p>In this case the LP in 2005 decided to impose a condition to keep the noise from those queueing to enter the pub to a minimum in both level and time scales. It would not have been logical for them to do that and allow other customers – who were not queueing and so outside for much longer – to remain there and so be the potential source of a much greater nuisance .To do so would have undermined the aim of the “queueing “ condition itself .</p> <p>The LP was concerned to promote a minimum level of noise nuisance by those queuing and must therefore have intended to rule out something much greater i.e. which could last longer and with a greater level of noise than the minimum and caused by persons who may or may not have been queueing .ie <b>the lesser includes the greater</b> .</p> <p><b>By limiting the noise to a minimum from those queueing to go in clearing and closing the “outside area” ie the whole of it would have achieved the object of reducing all noise from customers to a minimum. Otherwise ,any effect the “queueing “ condition had would simply be undermined by customers not within the two table areas once closed and others standing outside the pub .</b></p> <p>BHCC’s interpretation now includes the two benches. If that interpretation is correct, then why did the LP in 2005 leave the rest of the area outside the pub as a potential source of noise and antisocial activity which the representor had both specified and illustrated?</p> <p>BHCC states : -</p> <ol style="list-style-type: none"> <li>1. It does leave the possibility of people standing outside smoking and drinking on the pavement outside the pub after 11 pm as the pavement is not part of the “outside area“–<b>but it is in the section 182 guidance as it is within the area surrounding the premises. Submissions B 1.10(iv).</b></li> <li>2. Customers should not be congregating within the table areas after 11 pm as these areas should be closed off. <b>But they do and when provided with the evidence BHCC take no action – see video clips of 31/12/22 -because officers have not witnessed it. CH memory stick APP 2 Sch 1 Pt C</b></li> <li>3. If customers are standing outside on the pavement by the entrance to the pub, causing a nuisance and a disturbance <b>this should be investigated. But BHCC’s enforcement policy means it can’t be investigated effectively and efficiently i.e. when it is actually happening and an officer can witness it. CH statement Section 7.APP2 Sch 1 Part A.</b></li> </ol>	
<b>B49</b>	<b>20/2/20.</b> 16.11. CH – BHCC acknowledging receipt of email of 19/2/20, saying it will be considered and contact made as necessary. A few weeks later the pandemic lockdown commenced .	Page 38

B50	<p><b>3/2/20.</b> 10.10. BHCC – PH – dealing with woman’s loud voice in one of table areas outside Pub at 23.20 and security guard clearing chairs away from the area at just after 23.25.CH complaint. <b>lincident no.23)</b>  <b>“Concern expressed by BHCC that following the recent meeting that this allegation has been made.”</b> Goes on to stress <b>“the importance of complying with all the conditions on the licence and in particular ensuring the outside area is closed and cleared by 2300”</b> (i.e. just outside table areas on BHCC’s interpretation).  This was an example of non intervention by the security guard to prevent noise nuisance from a customer outside .</p>	<p>Pages 219-220</p> <p>REMINDER OF POSSIBILITY OF REVIEW AND THAT BREACH OF LICENCE CONDITIONS IS A CRIMINAL OFFENCE</p>
B51	<p><b>5/2/20.</b>17.12 PH – BHCC - refers to meeting on 20/1/20. Author believes meeting both “positive” and “constructive” – positive in that you and ? concluded towards the end you could not think of anything we could actively be doing differently from the way in which - and I discussed in detail our current daily operational procedures and monitoring.“ Refers to the author asking the question what should we do differently or change? Email ends with “regardless – we obviously <b>MUST</b> always adhere to all licence conditions ». They will use BHCC’s email as a prompt to remind staff conditions not up for negotiation</p>	<p>Pages 218-219</p>
B52	<p><b>6/2/20</b> BHCC to CH re complaint he made re woman outside shouting loudly and failure to clear and close by 2300. Asked to complete diary re any further incidents.</p>	<p>Page 218</p>
B53	<p><b>18/2/20.</b> 9.47 BHCC to PH re <b>a breach of licensing conditions as a result of an out of hours visit by BHCC and Police on 15/2/20.</b>  <b>Reminder of consequences of non-compliance with license conditions.</b>  <b>On 15/2/20 at 1130pm officers saw customers sitting and drinking at the tables and chairs outside on the pavement in front of the premises. They spoke to - who advised - was the duty manager. The reason that the outside had not been cleared was because they were busy inside and - was about to do it. Reference also made to a review and what could happen at one.- again .</b></p> <p><b>B50 shows a recent complaint re the outside area not being cleared and closed as required. Concern expressed as to that happening after a meeting with management . Yet 15 days after that concern BHCC officers witness <b>the same breach again</b> but just write another letter !! Presumably because officers did not witness first incident themselves .</b>  <b>What is the point of issuing a warning based on a resident’s complaint if BHCC feel unable to take a further enforcement step when another incident witnessed by its officers occurs? Would further action have been taken if <u>both</u> incidents had been witnessed by officers?</b></p>	<p>Pages 215-217</p>
POST PANDEMIC		
B54	<p><b>B54</b>  <b>25/8/21</b> irrelevant complaint re pub measures shows BHCC officer would be writing to DPS. Whern BHCC wrote to PH on 2/9/21 <b>further training needs to be carried out re-anyone working behind the bar to ensure they are aware of all the conditions attached to the</b></p>	<p>Page 223 – 224</p> <p>Page 224</p>

	<p><b>premises licence. Whoever the officer spoke to couldn't find a copy of the licence (!!)</b></p> <p>Follow-up in September. Involved conversation with assistant manager and an email to DPS explaining action must be taken to prevent this in future.</p> <p><b>Lack of training again a problem at Licensing visit on 13 August 2022. B76.</b></p>	<p>TRAINING</p>
<b>B55</b>	<p><b>7/4/22. 12.41 BHCC – PH refers to two complaints about noise from DJs and live music which is disturbing them as late as 0200. Sets out conditions after a reminder that “as you know you must promote all the licensing objectives, including prevention of public nuisance and should not be causing a noise disturbance to neighbours.” Asked to ensure no live music after 2300 and “noise from any events does not impact on neighbour.” (incidents no 24 and 25 )</b></p> <p>Reference made re-licence conditions - reference to number of musicians may exceed two subject to risk assessment? <b>Any examination of such risk assessments conducted?</b></p> <p>“The sound attenuator shall be set at a level approved by the licensing authority.” <b>What is it and was it checked ?</b> <b>APP 29 and Section 9 CH’s statement APP 2 Sch 1 Pt A</b></p>	<p>Pages 229-231</p> <p><b>NB Time</b></p> <p><b>Warning to PH</b></p>
<b>B56</b>	<p><b>6/5/22.14.17 internal BHCC memo which refers to 2 additional complaints. re Paris House. Diaries sent out to complainants. Queries if a colleague has a decibel meter and if so is it checked regularly? If doesn't have one has the person thought of purchasing one? (Incidents no 26 and 27).</b></p> <p>Enforcement agency not knowing if its equipment is accurate ??</p> <p><b>.APP 22 page 3 ,3<sup>rd</sup> para from end and APP30.</b></p> <p><b>Annotated copy of CH’s FOIA request.</b> Period required is 2017 to August 2022. Point 6 requests “a full record of all visits paid to PH” by BHCC staff and of “any follow up action including checks by enforcement staff to ensure compliance with licensing conditions and especially those aimed at preventing public nuisance “ - <b>reference made only to 20/1/20 –B41; 6/2/20 - ? officers passing by –B52: and 15/2/20 – B53.</b></p>	<p>Page 228</p> <p>Pages 233-234</p>
<b>B57</b>	<p><b>4/7/05 a copy of the letter of representation of which led to the 2005 LP hearing.</b></p> <p>The presenter’s concerns were -</p> <p>Para 1. “Growing problem caused to residents by local pubs “ refers to The Juggler in particular “( ie subject premises)” .....and to local pubs applying for extended licences under recent change in law “</p> <p>Para 2. “Over the last two years <b>the level of noise coming from the Juggler has got markedly worse, the pub regularly has disco nights and live bands (3-4 nights a week) where music is played</b></p>	<p>Pages 244-245</p>

**so loud we can hear it clearly in every room of our house which is 20 metres away and has no direct connecting walls.”** Calls to complain result in no action so complained to council environmental health dept.

**Refers in detail to antisocial behaviour which regularly spills onto the streets and results in “fighting, shouting, swearing, broken bottles and vandalism.” Distress caused to all of our family including our two young infants who are regularly woken up by the noise.**

Believes Juggler’s management could do a lot to discourage this behaviour but they consistently choose not to.

Para 3. Representer refers to attitude of then current management which he believes have consistently **demonstrated a lack of sensitivity to the area in which they operate and particularly the residents** of the area.

Para 4. Representer was thirty five and not anti pub , having lived near them in London and Brighton and never experienced similar problems before. Finally, makes the point that **the area was never designed to be an extension** of the type of nightlife which can be found in the city centre. Refers to “our house is grade 2 listed and can therefore not be fitted with double glazing to stop noise pollution.”

**The Applicants submit that many of the comments made in 2005 still apply. Submission Section D 1.10 also refers .**

**Application for the extension of licence received by BHCC in July 2005. This has already been referred to in the Submissions at D Para 1.4..** Only recorded music and the retail sale of alcohol and food consumption on and off the premises were authorised by the Justices’ licence. Note the limited hours on page 250 – closing at 2300 with permitted opening on New Year’s eve until close on New Years Day. **Extent of variation sought on page 254 is typical of what happened when the 2003 Act came in. It is not known whether any of the premises, the subject of such applications, were ever inspected to see to what extent they were suitable for what was proposed.-either before or after the application .Submissions L para 10 raises this issue.**

Page 261 refers to recorded music and states it will be amplified and distributed through small speakers throughout the licensed area with volume control by the licensee.

Page 264 deals with the facilities for making music – microphone and jack point to sound system. All other amplification/instrumentation to be provided by the performer(s) subject to risk assessment. **BHCC examined these??**

NB page is 270–273 refers to additional steps to promote the four licensing objectives. **Stresses communication with the public. Submissions B Para 1.32**

Page 246-284

	P281 – Applicant <b>Zelgrain Ltd operates 30 Pubs - inference being it is a large operator which may have greater resources. Submissions D Paras 1.7 and 1.8.</b>	
<b>B58</b>	<b>2/8/22</b> 22.24 PM – BHCC with reference to “really good point raised by a resident this evening where it was said <b>if the existing conditions which if properly observed and enforced would put a stop to most of what the residents have suffered. Asking licensee to realise they are fortunate to have such a licence and the conditions were simply imposed for our protection. That isn’t an unreasonable expectation. See B15 above and APP 2 Sch 1 Pt A Para 2.57.</b>	Page 307
<b>B59</b>	<b>2/8/22</b> CH – PM complaining of lack of response from BHCC on 25/7/22 having raised complaints on the 18/7/22. Ends with “ <b>How much more nuisance will we have to suffer in the meantime?</b> ” PM refers in contact with BHCC to the residents “feel a little uncared for” and whether a meeting can take place with the residents and BHCC	Page 310 - 307
<b>B60</b>	<b>4/8/22</b> 07.32 CH – BHCC also copied to PM and asking for details re premises. visits and letters to the pub; stating reluctance to become involved again, and had hoped these were isolated incidents, but they are not – referring to most recent ones; refers to video clips, re-complaints of 18/7/22. No BHCC officer has contacted him. Four more sent on the 30th and 31st July – no response; frustration at need for BHCC staff to witness problem. Other residents are complaining. Noise nuisance before and after 11 pm yet we have to wait for BHCC to witness it; refers to complaints to police; frustration re-BHCC’s out of hours service. Reference to “treacle like “ process previously endured. <b>APP 2 Sch 1 Pt A paras 1.15 and 2.65 and 2.65 refer .</b>	Pages 311-313  BHCC policy
<b>B61</b>	On <b>1/8/22 &amp; 3/8/22</b> JK contacted BHCC asking for field officers to visit later in the evening after 8 pm. She has requested monitoring equipment. <b>Suggestion made</b> that a field officer witnessing the noise is <b>preferable.</b> ( <b>ie she did not then understand BHCC considered it essential</b> ).Mentions field officers do not normally work beyond 8 pm and refers to “hit and miss” visits especially before 8pm.. She sends a flyer to BHCC on 3rd Aug re-club nights – Saturday 9 pm – 2 am and on 1/8/22 contacted Sussex Police asking for help. <b>NB top of page 314 end of email JK to BHCC of 4/8/22 refers to “sending someone this Saturday night to witness the hell the residents are going through on “club nights” until 2am.”</b>	Pages 319-314  Page 317
<b>B62</b>	<b>5/8/22.</b> 15.59 internal BHCC email – “Despite there not being many complaints to us recently“ – presumably environmental health – “ <b>this premises has a long history of noise complaints and alleged breach of licence conditions. I know that field officers have eight complaints of noise at the moment and councillors are involved so we are going to visit the complainant and the premises and go from there.</b> ” References made of the previous mediation process not going very well.	Page 320
<b>B63</b>	<b>5/8/22</b> JK – PM Also reported <b>urinating in the street by a PH customer</b> and a chain of emails follows which resulted in the police visiting the pub a few days later only to find it was closed. <b>B72 refers also</b>	Page 324 – 321  Page 321 - 322

	Police Licensing involved re a joint visit and refer to “all the complaints we are receiving about the premises .”	
B64	4/8/22 Two JK documents recording as <b>it happens people leaning on a car parked on the road at 9:15 and then actually on the road at 9:25. At 8:50 pm the same evening she also reported customers dancing round cars on the road outside the licensed area, that being “just a quiet Thursday night, 8:50 pm!! Imagine Saturday”.</b>	Pages 324-325
B65	2/8/22. CH - Environmental protection and councillors about responding to his complaint. Refers to <b>previous complaints never satisfactorily resolved; number of incidents last month comparable to any about which previously complained; noise on night of 30/31/7/22, almost as bad as it has ever been; conditions on licence to prevent public nuisance not being observed or enforced; reference to writing to Sussex Police Licensing Unit; felt that BHCC staff had not treated our previously expressed concerns properly.</b>	Pages 326-327
B66	3/8/22. 14.15 BHCC internal email refers to visit to complainant’s premises between 1920 and 1945 on Sunday 31 July. Pub door open when they arrived, noise from live music audible in complainants’ property but not a statutory nuisance. (But <b>not in keeping with promotion of licensing objectives</b> ) .How far away from PH was this resident ?	Page 328
B67	<p>19/7/22. CH -PM. Makes reference to a number of points as listed below –. DA 2015 means only music after 11 pm is enforceable on the licence conditions.</p> <p>What is being done to enforce it? We are disturbed by music and other noise from customers outside the premises well after 11 pm. Incident last Friday (15/7/22) was an example of music played “so loud” before 9 pm –let alone 11 pm. Noise from customers after 11 pm created a noise – <b>what do enforcement team intend to do about it?</b></p> <p>2. Questions whether management of PH “playing” enforcement? They promise not to do something which has caused complaints or say its not happened, keep that up for a few weeks and then just start all over again in the hope the residents will give up complaining. <b>We are not moaners or killjoys but would like them to consider us and simply comply with legal provisions which should be properly enforced.</b></p> <p>3.“Clearing and closing outside area by 2300” – BHCC has stated this only relates to the two “outside table areas“. No reference to the two benches. There is a difficulty of enforcement on BHCC’s interpretation. The areas where tables and chairs were cleared then become areas where customers stand and the general outside area – benches, pavements, road surface at top of Brunswick Street East before the junction with Western Road – have customers outside drinking and making a noise. On warm nights, such as those recently, there must have been 40 or 50 people outside after 11 pm and very few of them were smoking. Smokers can circumvent it. There is a difficulty for staff to enforce it based upon the BHCC’s interpretation. Smokers can go outside after 11 pm. Do staff ask those buying a drink after 11 pm if they</p>	<p>Pages 334-336</p> <p>Page 334</p> <p>Page 334</p> <p>Page 334 - 335</p>

	<p>are going outside and will be smoking? How long can smokers stay outside with a drink when they're not smoking?</p> <p>The outside area within the licence – when the tables are gone, it is effectively no longer licensed (i.e., cleared and closed) – so how are customers allowed to stand in those areas after 11 pm. (It needs to be marked on the ground).</p> <p>The licensee has responsibility for the area immediately outside the pub. <b>Submission Section B Para 1.10(iv)</b> Benches attached to pub are not included in that area - makes no sense.</p> <p>Last Friday and Saturday nights ( 15 &amp; 16/7/22)) the only way past those benches or any parts of the pavements outside the pub was to walk in the roadway itself from about 7 pm onwards until well after 11 pm. Effectively, they have enlarged the licensing area which management continue to exploit in the absence of proper enforcement.</p> <p>Repeat breaches of conditions. The officers' response is it's difficult to do much more when they have visited the premises and written to them and mediation taking place. <b>But not as at this date !!</b>) Their comment about intelligence from the residents is it's not been witnessed by enforcement staff and that becomes difficult to rely on and <b>the "need for more concrete evidence before formal enforcement action can occur ."</b></p> <p><b>Same phrase used two years six months before in B39 point 5. Impression is BHCC will not do anything unless officers witness noise nuisance – no matter how many complaints residents and others may make .</b></p> <p>Night call outs no longer exist. Video clips – dates and times on my phone. Not visible when BHCC saw it. They were shown to PM (<b>APP2 Schedule ! Part A Para 2.61</b>). and he agreed it was ridiculous. <b>Legally this evidence is admissible - it's just that BHCC and the policy they choose to follow means they do not use it until an officer has witnessed a noise nuisance.</b></p> <p>Bottom of page – other residents have said they will write to complain.</p> <p>(Page 336) – “the time is now ripe for proper action from the enforcement team“</p> <p>Final. Paragraph – <b>CH says reluctantly they would be willing to collect evidence but only if it will actually be used for enforcement purposes and not viewed as something to pick apart for no good reason and so as not to take action. (Para 1.15 of his statement refers – APP 2 Sch 1 Pt A ).</b></p>	<p>Page 335</p> <p><b>B39 point 5 para 3 of analysis</b></p>
<p><b>B68</b></p>	<p><b>4/8/22</b> 8.49 J.K – PM– she refers to a neighbour wanting to complain about PH – <b>impossible to sleep with the noise“</b> and meaning to complain to environmental health. “There can be a gap between feelings and action – particularly when action (completing the form) is possibly a waste of time anyway.”</p>	<p>Page 337 SLEEP</p>

	She refers (bottom of page 337) to PH management know BHCC will take and offer meaningless and time consuming processes to residents but will actually do nothing to the Paris House. Refers to contacting Police Licensing Unit to request they monitor PH on Saturday night.	BHCC policy
<b>B69</b>	<p><b>2/8/22</b> 10.06 PM to JK– he says he’s flagged this with council enforcement and explained the rationale of the meeting – senior council officer is okay with it. He refers to needing “to be able to say there’s a lot of concerned people” and suggests door-to-door inquiries and “just touch” with neighbours.</p> <p>(There was no meeting with residents until the 7/11/22 - three months later. The Applicants felt the suggested steps should be taken by a disinterested person and PM was told that).</p> <p><b>APP 22 and APP 2 Sch 1 Pt A Paras 2.80 and 2.81 refer</b></p>	Page 338
<b>B70</b>	<b>8/8/22.</b> 1102 BHCC, internal email – “..... <b>I’ve just returned from leave to 50 emails regarding this establishment.</b> ” Because names were redacted, the author of this email is not known.	Page 346
<b>B71</b>	<p><b>8/8/22.</b> 9.30 internal BHCC email – person says “I’ve just returned from leave and <b>have around 50 emails re-the above establishment.</b> ( This appears to be a more detailed email from the author of B70)</p> <p><b>I have eight complaints regarding the noise of music from the Paris House. FOs were tasked with trying to witness the noise on a weekend evening. “... No noise nuisance proven ,(but only because BHCC’s policy requires noise nuisance to be witnessed by an officer before action. There was plenty of evidence legally admissible to show that there had been a noise nuisance)</b></p> <p><b>“Interestingly, when the FOs visited, the premises door was open (despite there being a condition to have the door remaining closed, I believe). From the videos received there are a large crowd of people lingering around the front of the premises also causing noise.” (In other words, there’s the evidence!)</b></p> <p><b>This in itself shows there is something in what the residents have been complaining about.</b></p> <p><b>This email concludes with “Unfortunately ,without the evidence of an existing nuisance there is little further action I can take at this time.” Indicates there is no evidence because an officer hasn’t witnessed it .</b></p>	Pages 349-350
<b>B72</b>	<b>10/8/22.</b> 9.15 internal BHCC email re-visiting PH – para 3“ I would just be doing a routine licensing inspection to ensure compliance with a premises licence and conditions.I would be looking for compliance with any conditions noise related in particular and advise of complainants etc. Not necessary for Police to attend – they did go there on Sunday re the public urination incident and the pub was shut. Says not sure Police can attend with her on Saturday as can’t go alone “but I’m not sure they will have the capacity.”	Page 351 – 352  Police follow up on complaint but pub closed .Did they return?
<b>B73</b>	<b>10/8/22.</b> 8.52 internal BHCC email is to the author of the previous one. “Please excuse my ignorance, but what do you do on such visits.“ (?????)	Page 352



B74	<p><b>10/8/22.15.55 CH - BHCC – deals with various matters, including the licence and records and at p358 reference to his being informed that at a recent mediation a member of PH’s management said the licence conditions are “something of a grey area.” (This must mean the mediation which we understand Resident 5 attended in July 2022 and echoes the comments made by Licensee’s director at mediation meeting in 2019)..APP 20 ,3<sup>rd</sup> para ,second page .</b></p> <p><b>This emphasises that the conditions need reviewing under licensing law .</b></p>	Pages 357-358
B75	<p><b>11/8/22. 16.46. BHCC - PM states “we have recently received some complaints” about PH “particularly in relation to noise outside the premises.” Relevant conditions are listed. In penultimate paragraph PM told an officer had opened a new case and was monitoring the premises for compliance. In other words, the premises and the licensee are on notice that they are being watched (but note findings of BHCC officers on unannounced inspection on 13/8/22 below) – B76..</b></p>	Page 364  PH reminded of Licence conditions and made aware of complaints of noise – particularly from outside premises
B76	<p><b>15/8/22 9.08 BHCC Officer to PM ( p 375 - 376) -reports re visit to Pub area, 10 pm Friday 12 August. No noise nuisance. Also Pub visit at 10 pm. Saturday, the 13 August where there was a DJ playing music with the front door open. They thought the noise was not excessive for a licensed premises. But see next para. They agreed with residents that there was no noise nuisance. After the visit to residents a full licensing visit was conducted.</b></p> <p><b>Are officers concerned with a statutory nuisance under EP Act rather than the SOLP?</b></p> <p><b>SOLP at para 6.1.2 says “noise emanating from licensed premises should not normally be audible from outside.” ESPECIALLY NOT FROM ONE WITHIN THE CIA.</b></p> <p><b>The manager — was spoken to about all aspects contained in the licence. To say the manager was vague on certain aspects of the licence would be understated. The establishment does possess sound monitoring equipment, but “nobody knows how to use” this equipment. (!) Paper trails for different checks were non-existent. Signage was present but not adequate (new signs and paperwork given).? is organising council training for staff as this was again, highly inadequate.”</b></p> <p><b>NB Not a breach of licensing condition because of time officers attended BUT had they attended just over an hour later it would have been.</b></p> <p>The officer said that considerations moving forward were“ –to make proposals to the establishment re <b>their breaches of conditions.</b>” (They will update further on those aspects) “I shall be installing recording equipment into - - properties. I need to establish if an environmental health officer is aware of some monitoring equipment to possibly attend PH and provide advice on the systems usage.”</p> <p><b>Was this done? Was the attenuator adequate to deal with the problem? APP29 provides reason to believe noise attenuator may</b></p>	Pages 375-376

	<p>not have been working at all on this date and ,possibly, not for some time before.</p> <p>“Hopefully, our action will go some way to resolving the issues with this premises. The licensing intervention will greatly <b>assist the running of this establishment which currently appears to not be adequate enough.</b>” (and this is after all the previous history going back according to the FOIA from at least 2016!)</p> <p>In other words, given the previous history of complaints; the warning in 2020 about the licence breach; the number of complaints re the noise nuisance; and the attenuator being a condition of the licence - the enforcement agency meant to promote the prevention of public nuisance - one of the licensing objectives - is left with a licensee whose staff that evening had “nobody “who” knows how to use it”!! Why on earth not?</p> <p>Does this not amount to a general failure by the licensee? There was no paper trail regarding checks. BHCC is going to organise training for this “highly inadequate” licensing visit.</p> <p>Why was no action about the breach of condition taken? Why do they apparently not even know of the condition or how to use the very device that is required to be there working to protect residents? No wonder they had been caused so much disturbance and stress.</p> <p>Evidence provided by recording equipment was subsequently deemed useless because the officer installing it had placed it in the wrong place and ,in any event ,it was unable to identify the source of any noise.</p> <p>APP29 provides details of BHCC’s opportunities and attempts to check whether the attenuator was working .After five months it was found it was not – and despite the PH management’s claim it was .It may very well not have been working in July and August 2022 and for some - ? considerable – time before.</p>	<p>APP29</p>
<p>B77</p>	<p>14/8/22 8.18 JK to ? K, Adderson – <b>Stage two complaint.</b> She refers to asking several times if BHCC officers would change 12/8/22 for the visit as it was a quiet night and then visit should have been on a “music night“. She makes the point that <b>all the pre-planning works in PH’s favour</b> and points out what happened when BHCC went there unannounced on the 13/8/22.</p> <p>In her final paragraph on p 377 she refers to BHCC’s approach is for the regulator to try to find mutually agreed solutions to neighbour wide issues but it has repeatedly failed after many neighbours’ requests to the PH to turn the volume down and after two mediations. At page 377–378 she points out that the council has <b>consistently failed the residents living close to the PH for many years and may well continue to do so.</b> There is simply no assurance as yet that BHCC will ensure the PH is conforming to its licence re the sound attenuator being properly used and keeping proper records. She made a stage two complaint, but, regrettably, she received a bland answer to the effect</p>	<p>Pages 377-378</p> <p>BHCC policy</p>

	<p>that the officers were working hard and it was difficult to obtain the evidence.</p> <p><b>(Of course it was if officers are only going to attend on the chance they might find a noise rather than attending when they had been called out specifically because residents report or are actually witnessing one!)</b></p> <p><b>Opportunity to be flexible and allow limited call out to provide a better chance of officers witnessing noise nuisance .CH statement Para 7.3.APP 2 Sch 1 Pt A</b></p> <p><b>At page 378 second para JK specifically raises the noise attenuator and asks for assurances from BHCC it is being used properly.</b></p>	
<b>B78</b>	<b>Not used</b>	
<b>B79</b>	<p><b>25/7/22.8.36</b> internal BHCC email – <b>refers to considerable history of this premises prior to Covid.</b> “I emailed the owner of the premises in April and had a conversation with ———. I received an email from ——— on the 25th of May. ——— said — <b>had other complaints about noise after 11 pm, but nothing since” (but what did the enforcement agency do about these?)</b></p>	Page 381
<b>B80</b>	<p><b>22/7/22.</b> 14.20 internal BHCC email. There had been a previous one the same day at 1400 querying whether they should consider a licence review. The author of this email is questioning whether there’s been enough evidence for one and says “I know there’s been a lot of complaints predominantly from one resident but not sure if its substantiated.”</p> <p><b>(?? Had this person read the file or considered the history)</b></p> <p>In providing the information requested by the FOIA application (another copy of which is at page 388 -389) BHCC included a copy of the plan which accompanied the application for the new Act licence in 2005. This was the clearest copy CH had seen. It is dated 14/6/05 and is at page 390.</p> <p>NB following: –</p> <ol style="list-style-type: none"> <li>1. Road marked as Waterloo Street instead of Brunswick Street East and so therefore incorrect.</li> <li>2. Key in top left-hand corner refers to areas made available for consumption outside the premises and that is how the outside table areas are marked. - ie NOT the rest of the pavement area which is currently used as such and <b>the implication at least is that that is the only area ie the outside table areas intended for outside consumption.</b></li> <li>3. Note only two doors in i.e., no lobby or second set of doors to muffle noise. (There is no second set because, apparently, it would breach fire service regulations). <b>Is that correct? ( see B39 above point 2 ? premises say a porch will be a breach of fire regulations ?) .</b></li> </ol>	<p>Page 382</p> <p>Page 390</p>

	<p>4. Note two“bar” areas on the plan. <b>PH choose to (can only?) have recorded and live music played very close to the door. Why not move it to the rear bar where there is a double wall on two sides which would prevent – or at least reduce -noise coming from the premises on to Brunswick Street East? All bar areas on the plan are designated for regulated entertainment. Was there a licensing visit to these premises before the additional licensing activities were authorised in 2005? How suitable are these premises for the use to which they are put? ( Cf Submissions K Paras 1.10 – 1.16).</b></p>	
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**C 114 pages of miscellaneous material**

Year and ref.	Description and comment	Page No
C1	<p>5/10/20—email from someone on behalf of PH. Questions legal basis for BHCC officers requesting information for “many weeks.”</p> <p>References made to “the Paris House” in which the author has similar concerns. The point is made that there are no details of the nature of complaints and very few details have been provided with only vague references to a trumpet, noise, levels etc. There are no details of the identity of the complainant (s) and there is reference by BHCC officer that one of the letters of complaint is from a “new “complainant. Makes a point that BHCC can’t give information re the original complainant then how can they tell who the new one is? Suggests this could be “a serial anonymous and/or vexatious complainant” and asks what BHCC have done to investigate that.</p> <p><b>Presumably ,BHCC will know who was the new complainant .The reference to “trumpet” may well relate to CH’s own complaint at C9 below.</b></p> <p>Paragraph 2 complains of “a long history of totally false allegations being made as to sound issues from the Pub over many years. “Many, many times we have been able to categorically disprove such claims.”</p> <p><b>From FOIA information provided to Applicants only evidence of such a dispute is re B7 – B10 above .No one, apart from the licensee ,has said that has been “disproved .” From the FOIA it seems it wasn’t properly investigated because there is no evidence from it to show that either the licensee’s CCTV evidence or the Applicant CH’s video clips were looked at by BHCC .</b></p> <p>Most of these complaints have been about “noise“ even though we’ve been able to show the pub being closed many hours before the time of the alleged problem.... When some of the complainants have been asked to participate in the resolution process to address their concerns, they have simply chosen to withdraw from the complaints process rather than explaining the demonstrably false allegations”</p> <p>Whilst CH and VH did withdraw from the mediation meeting for reasons set out in their statement ( <b>APP2 Sch 1 Paras 2.29 – 2.52</b>), they did not withdraw from the complaints process – as the licensee’s Head of Legal acknowledged in his letter to them at <b>APP11 Part A.</b></p> <p>It is not evident from the FOIA papers how the PH showed their “allegations “ were “false” but it is clear from <b>APP20</b> that video clips had been shown to them and letters written to the</p>	<p>Page 2</p> <p>Page 3</p> <p>Page 4</p> <p>Page 4</p> <p>Page 4</p>

	<p>management of PH before the mediation by BHCC officers . Nothing was said by them at mediation about why the video clips were “false”. On the contrary, they were vague and uncertain about whether they had seen either video clips or letters .</p> <p><b>This takes no account of CH’s indication at the outset that he had video clip evidence of the noise nuisance on 1 January 2019. It may not be the boss’s fault if BHCC did not tell him that but there is no evidence in the FOIA information about repeated complaints of this nature but only the one in January 2019 (CH’s first complaint about PH). On the evidence provided, this seems to be an adoption of the policy of “attack is the best form of defence!”</b></p> <p><b>Comments about withdrawing from the process are fully dealt with in CH’s statement at APP 2 Sch 1 Pt A Paras 2.29 – 2.52 and the APPS referred to there and para 5.10.</b></p> <p>Paragraph 3 reference is made to BHCC not addressing questions regarding the veracity of the complaints and one such complaint relates to contact details not being collected which is “absolutely untrue.” If the complainant didn’t enter the premises, how can they make such a... statement?”</p> <p>Paragraph 5 - the author refers to an email of 13/8/20 regarding complaints of noise from a “trumpet “. No live music was performed at the Paris House since before lockdown on 20 March 2020. The suggestion therefore is that this complaint is untrue but in fact CH’s email <b>APP 36</b> referred to hearing a song by Debbie Harry and then referred to a trumpet. Unless PH had Debbie Harry live on its premises (!! ) then it is a reasonable assumption that the trumpet was from recorded music as no doubt was her voice!</p> <p><b>Why has the author simply assumed that the complaint was about live music? Neither our complaint to BHCC or BHCC’s email mentions the word “live.” The latter is at C9 below.</b></p> <p>The email refers to BHCC having a duty to act fairly but no evidence of any basic fact checking, which is “a theme I am monitoring extremely carefully.”</p>	<p>Page 5</p>
<p><b>C2</b></p>	<p><b>1/10/20</b> is an email from Rowbell Group of Companies discussing whether BHCC officers requesting risk assessments have the lawful authority to do so.</p> <p>The above relates to <b>23/9/20</b>, which is BHCC’s response to previous emails, which referred to “officers... investigating complaints made against both Paris House and—— including <b>loud music and a lack of social distancing.</b>“</p> <p>At the end of the second paragraph it is stated that “ The health and safety officer that spoke to the manager of Paris House</p>	<p>Pages 5-6</p> <p>Page 7</p> <p>RECOLLECTION</p>

	<p>.....does not accept the words that have been attributed to - in your email.” BHCC also do not accept the allegations made about an officer’s conduct in the previous sentence.</p> <p><b>This is similar to what the letter at APP11 claimed and is refuted in CH’s statement at APP2 Sch 1 Pt A Para 5.10 (viii).</b></p> <p><b>(Were there problems at another of Rowbell’s venues? Are they suggesting all residents who complain are conspiring against them???)</b></p>	
<b>C3</b>	<p><b>15/9/20</b>—email from licensee re-“ Grounds for Official Complaint”— reference is made to the provision of risk assessments (which were eventually produced later) and page 10 refers to a BHCC officer requesting a copy of the Covid risk assessments which they say, put their DPS in “an impossible and compromised position.” The residents can have no idea of what this was all about but perhaps the last four paragraphs of this email are aggressive and indicative of the licensee’s attitude to its behaviour being questioned.</p>	Page 10
<b>C4</b>	<p><b>6/10/20</b> In addition to <b>C9</b> below BHCC notify PH of -</p> <p>Police Licensing Unit have had complaints from <b>three</b> separate individuals -</p> <p><b>23/8/20.</b> 01.43 – Pub not adhering to social distancing measures, no tables and pub packed with people vertical drinking and dancing so much it was spilling out into the street. “The second weekend in a row this has occurred.”</p> <p><b>24/8/20</b> 15.33 group on a Saturday afternoon. No Covid rules being applied. Stood outside for one drink and left. Live DJ playing 80s music <b>really loud, Dance floor/Pub was packed, dancing standing around the bar. No masks at all - had to squeeze past to get to the loo. No one was bothered and doorman did nothing.</b></p> <p><b>See B50 – security not intervening then</b></p> <p><b>24/8/20</b> 1852 informant observed a group of 30 to 40 people outside the pub and many more inside. DJ playing and people dancing in the bar and road outside. No social distancing. Packed Pub both inside and out. Informant very surprised as other pubs in area doing very well to maintain social distancing.</p> <p>This email finishes with “I have not had any further complaints or contact from any of the complainants and will close the case for the moment....? was dealing with a noise complaint, but not sure if he’s closed it.”</p> <p><b>(? No consideration given to taking these three complaints further? Was it because no BHCC officer had witnessed them ? ).</b></p>	Page 21-22

<p><b>C5</b></p>	<p><b>31/8/20</b> PH to BHCC re-risk assessment initially. At page 30 paragraph 8 “noise” refers back to email of 13/8/20 by licensee  i.e., before most recent complaints in late August. Again, the “trumpet” issue is dealt with and the statement that there was no live music at PH since before lockdown. “And no live music is being contemplated for the foreseeable future so like many previous claims concerning the PH this is yet another verifiable, complete fiction.” (this is due to his interpretation and BHCC’s failure to provide the licensee with all relevant information - another example of <b>“attack being the best form of defence.”</b> <b>See C1 above.</b></p> <p>The author refers back to the email of 13/8/20 saying that he personally has been at PH for two of the last three Saturdays when the pub was open. He has undertaken walk round monitoring trips and found no problems. Also witnessed other employees doing the same and that “all is well as far as not being a (noise) nuisance is concerned.”</p> <p>He suspects that, after a long period of silence from lockdown, neighbours are finding the contrast between silence and a reopened the unit – “shall we say, stark? This of course doesn’t mean there is a noise problem, however.”</p> <p>(Easy assumption in self defence that the residents must be totally mistaken. <b>Why such a failure to give credit to persons making reasonable complaints on a regular basis and which may have a detrimental effect upon their ability to sell their homes??) Easier to criticise than engage constructively .</b></p> <p>And then, again, <b>the repetition of the conflation</b> of what is one incident (based upon the FOIA ) revealed that “... over many years there has been a long history of complaints being made against PH, which have been <b>proven to be completely untrue</b>” and the author goes on to deal with a New Year’s Eve complaint about noise at 6 am specifically coming from our venue, even though it’s been closed many hours before. “Just one example of many false complaints. We have also had a complainant (a neighbour in BSE) who, when challenged, withdrew from the noise complaint process.”<b>That was CH and VH and the reasons they withdrew are given in contemporaneous emails sent that day APP 16 and APP 19 – emails exchanged with Resident 1 after mediation .</b></p> <p><b>In CH’s lack of knowledge of BHCC’s enforcement policy and based on his previous experience ,he thought that, having been told by BHCC that if they underwent mediation and had to make complaints later then they would be treated more seriously, the licensee might wish to engage constructively.</b></p>	<p>Pages 29-31</p>
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	<p>Instead, having found a licensee who did not want to compromise in any way or admit there was any problem, there was little point in CH and VH remaining. As a result, he presumed that BHCC would take effective enforcement action if further complaints followed but that did not happen.</p> <p><b>APP 2 Sch 1 Pt A Para 7 and Submissions at F.1.9 and F1.28.</b></p> <p>The licensee goes on to claim that the nuisance complaint was about “a verifiably, fictitious, trumpet.” Presumably that refers to CH’s complaint and amounts to a wrong assumption that the complaint related to live music.</p> <p>(? Surely if the licensee had taken this complaint remotely seriously he would have checked exactly what music was being played at the time of the complaint and BHCC could have made that inquiry when investigating?).</p>	
C6	<p><b>8/9/20</b> BHCC send detailed further complaint to PH from Police re 6/9/20. 10.22– “... <b>are getting away with playing loud music with a DJ indoor all night, people, standing/dancing – singing, no track and trace in place and no social distancing...</b>”</p> <p>On above pages licensee makes comment about no one from BHCC going out to see it despite it being 53 days after a relevant email.</p>	Page 35 - 36
C7	<p><b>9/8/20</b> 12.35 PM to BHCC re-complaint from residents – “you may recall that pre-lockdown the pub was up to all sorts. It looks like it’s back. <b>Local residents have been suffering from this noise for far too long.</b>”</p>	Pages 57-56
C8	<p><b>9/8/20 1.07</b> CH - PM re-the last three weeks, being very noisy and reporting <b>hearing the words of a Debbie Harry song and then the playing of a trumpet.</b> Noise so loud couldn’t sleep and had to get up.  <b>The word “live” does not appear!</b> Also refers to the noise going on for about an hour and “They are still at it and no doubt operating with the doors wide open’ .”</p> <p><b>Unless Debbie Harry was performing live at the PH that night – which seems unlikely – it was obvious it was recorded music being played and reasonable to suppose that any subsequent music played ie by a trumpet was also recorded .</b></p>	Page 58

<p><b>C9</b></p>	<p><b>13/8/20</b> 10.38 BHCC -PH officer says (para3) “The complaint refers to noise from music and also mentions a trumpet and has been referred to the Environmental Protection Team to investigate.”</p> <p>The licensee was allowed to dismiss this complaint because it assumed (without foundation ) that it related to live music - <b>words never used in either the complaint or BHCC’s letter.</b></p> <p><b>This illustrates just how seriously the complaint was investigated by BHCC. A start would have been to ask for a full list of what had been played that night from the DJ. Having had the complaint, sent a letter informing the licensee of it and received the licensee’s response, it was made the subject of no action - despite the previous history and the fact the complaint’s substance could have been easily verified.</b></p> <p><b>As no BHCC officer witnessed it and couldn’t have been called out to do so the policy means no action was taken. It doesn’t properly address a resident’s real concerns, effectively trivialises them and allows the licensee to believe either false complaints are being made or, more likely, that a denial will be accepted!!</b></p> <p><b>It is submitted this is an example of just how far BHCC’s enforcement policy failed the residents. If action will ONLY be taken when and if a BHCC officer witnesses then it may not matter very much whether the residents’ complaints are properly reported to the licensee or what the licensee says in response !!</b></p> <p><b>This is the second example of misquoting by BHCC officers found in the FOIA information .See also CH’s statement at APP 2 Sch 1 Pt A Para 7 generally and para 7.14(D). Earlier example is at B27, 31 and 33.</b></p>	<p>Page 54</p> <p>BHCC policy</p>
<p><b>C10</b></p>	<p><b>16/12/20</b> BHCC to licensee – deals with risk assessments and lack of further intelligence or complaints and another decision not to take further action.</p>	<p>Page 60</p>
<p><b>C11</b> <b>NB This also appears at B33. Analysis duplicated to some extent .</b></p>	<p><b>29/10/19</b> licensee to BHCC, covering a number of matters, including VAT “most important to note —— left the mediation meeting prematurely and before the session ended as it happened on a high note.” (This relates to CH and VH leaving the meeting for reasons given in emails later on the day of the mediation and subsequently). <b>APPS 16 and 19.</b></p> <p>In this email reference is made of false complaints in October 2017 and a complaint on a Saturday night and a meeting with a member of the licensee’s team on the Sunday which contain false claims of fact. (This was <b>not the Applicants</b>). The complainant was insisting their premises licence prevented them playing music after 1 am which is not true .The</p>	<p>Pages 98-102</p> <p>Page 99</p>

	<p>complainant apparently decided the PH member was “dismissive” but the licensee says they were simply pointing out that comments about our licence were verifiably untrue (<b>who was this complainant?</b>)</p> <p>Reference made yet again to New Year’s Eve on the 31st of December 2018, it was clear from the mediation meeting that they (i.e., CH and VH) had made the complaint and “they wouldn’t or didn’t want to accept the noise was not coming from PH “- <b>that was because of the video clips which we understood had been shown to the DPS</b></p> <p>On 31/1/19 the licensee makes reference to an email from BHCC, which seem to accept the version of events. “Licensing team do not intend to take any further action with regard to this matter.” As a result, the licensee was surprised that would be mentioned again .</p> <p>The fact is that BHCC had not examined the evidence properly. We were not convinced that the pub was closed. Given the evidence we had by way of video clips then, apparently, it was not shown to the licensee (although we understood it had been ), and we were not shown the CCTV it was said they had. Did BHCC look at either of them? When the complaint was made in January 2019, it specifically referred to video evidence being available and it still is! <b>APP 2 Sch 1 Pt D.</b></p> <p>Complaint letter of 16 October Licensee makes plain the complainant has said he acknowledges PH is undertaking necessary regular inspections to monitor noise levels. <b>BHCC misquoting us B27, B31 and B33.</b></p> <p>Points to challenge “ –noise from outside the premises” – licensee says how can anyone be so categorical the noise was coming from <u>our</u> customers.”  <b>The response is because we stand there and watch them shouting, talking etc with no regard for residents.</b></p> <p><b>We are in no doubt where the noise comes from. Both CH and VH are responsible people who would not dream of making a complaint if they were unsure of the source of the noise.</b></p> <p>Licensee suggest noises coming generally from passers by crossing BSE and Western Road and refers to homeless hostel –</p> <p><b>CH can not speak for other residents but he and VH have never complained about noise from the PH without checking as to where the source is. If there ever has been any doubt, then no complaint is made ie when we complain, we are sure the noise is from PH.</b></p>	<p>Page 99</p> <p>Page 100</p> <p>Page 101</p>
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The licensee goes on to mention points have been raised elsewhere, such as “lashing out and blaming the PH for all the problems and ills which exist in the vicinity of their home”.

**A very easy reaction to take by someone not willing to accept complaints from anyone, despite the background of the regular complaints from a variety of residents over the years.**

As the licensee well knows the reference to general drug dealing in the area of Western Road, outside the Paris House and our home was just that - a general reference. There was no suggestion the Paris House was engaged in it, and when a question was asked about what we were referring to we said we could not say it was PH. That and other remarks made at the mediation do not begin to be an attempt “to smear“ to the PH but were simply an attempt to give an idea of what the residents have had to put up with. There is no retraction of an allegation PH involved in drug dealing for the simple reason it was never made. We have previously witnessed drug dealing from someone who came from the pub and dealt drugs outside the Caribou Rooms but that does not mean there is a claim that this licensee is involved too).

With regard to the homeless hostel, then the author has met a number of people there and has befriended at least one to the point of providing him with food and clothing. No complaints of any noise coming from the Paris House have been made when we were unsure of the source.

The licensee refers to customers saying complimentary things about them and speaks in term of the “old-age” ones. As a matter of common sense, what regard do customers have for residents when they are out for a night, having a good time and under the influence of alcohol? It is at least likely that even those with good intentions at the beginning of the evening forget to maintain them due to the good time they are having and the alcohol consumed.

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