

HASTINGS BOROUGH COUNCIL

[Insert details including name and address of licensing authority and application reference if any (optional)]

05 MAR 2014

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I David Steeds Principal Environmental Health Officer

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Bar Moda Lelsure Limited 206 Queens Road	
Post town Hastings, East Sussex	Post code (if known) TN34 1PD

Name of premises licence holder or club holding club premises certificate (if known) RICHARD MARTIN & KATIE MARTIN T/A MODA LEISURE LTD

Number of premises licence or club premises certificate (if known) HOP50051

Part 2 - Applicant details

I am

Please tick yes

1) an interested party (please complete (A) or (B) below)

- a) a person living in the vicinity of the premises
- b) a body representing persons living in the vicinity of the premises
- c) a person involved in business in the vicinity of the premises

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- d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

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

Surname

Steeds

First names

David

Please tick yes

I am 18 years old or over

Current postal address if different from premises address

[Empty box for current postal address]

Post town

[Empty box for post town]

Post Code

[Empty box for post code]

Daytime contact telephone number

[Empty box for daytime contact telephone number]

E-mail address (optional)

[Empty box for e-mail address]

(B) DETAILS OF OTHER APPLICANT

Name and address

[Empty box for name and address]

Telephone number (if any)

[Empty box for telephone number]

E-mail address (optional)

[Empty box for e-mail address]

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address David Steeds Principal Environmental Health Officer Environmental Protection Team Environment and Safety Directorate 4 th Floor Aquila House Breeds Place Hastings TN343UY
Telephone number (if any) 01424783222
E-mail address (optional) DSteeds@hastings.gov.uk

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

Please tick one or more boxes

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

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

That Richard Martin and Katie Martin T/A Bar Moda Leisure Ltd are the current premises licence holders and Richard Martin, as the Designated Premises Supervisor are failing to promote the licensing objective, "the prevention of public nuisance".

The conditions attached to the licence have been persistently breached in that noise from amplified music, and patrons who attend the premises impacts on the surrounding residents.

Specifically noise from the premises shall not be audible in Russell Street, being the closest residential area to the premises. (Minor variation – May 2010). Noise has been witnessed in Russell Street contrary to the conditions of the licence. The distance from the source of the noise in Russell Street is approximately 43 metres.

Additionally noise has been determined as being audible at the façade and within the home of the occupants of [REDACTED] Queens Road. The distance from the source of the noise in Queens Road is approximately 50 metres.

On the basis of information gathered over a period of 11 months it has become necessary to initiate a review of the premises licence HOP50051, due to the ongoing non-compliance by the licence holders. The grounds to support the application are set out in the attached appendix (Appendix 1.)

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

Information to support of the application for a review of the current licence conditions
is set out in the attached appendix of the application,(Appendix 1).

Application for the review of the premises licence HOP5001 - Bar Moda Leisure Limited 206 Queens Road Hastings, East Sussex, TN351PD

Supporting Information

Regulated activity in the form of live and recorded music takes place on the ground and first floor of the premises. The sound proofing is rudimentary in that there is single glazing to the windows on the ground floor front and first floors. A lobby has been constructed at the front right side entrance of the premises and the licence holders have the capability of putting into place a temporary lobby to the main entrance during periods of regulated activity. The licence holders have undertaken sound proofing works which are outlined in an email dated the 14th January 2014 (Document 1). The measures put into place have not been successful as complaints are still being received.

Complaints

At the time of writing the council's records indicate that 20 complaints have been recorded against Bar Moda 205-206 Queens Road, Hastings from nearby residents in Queens Road. I attached a list of complaints (Document 2) received since February 2013. The incidents report noise from loud music being audible in [REDACTED] Queens Road.

The records show that noise from loud music has been reported to have been heard by the residents in their home between the hours of 22:27 and 01:49 hours. The records also show that noise is generated by customers sitting at the tables and chairs outside the premises.

Noise Diary

The principal complainants who live at [REDACTED] Queens Road were asked to diary their experience in relation to the noise coming from Bar Moda. I attach a noise diary, document 3 for the period 06/05/2013 to 26/07/2013. The diary describes the noise and how it affected the complainants and where in their home the noise can be heard. The diary lists 10 occasions when the complainants reported being able to hear noise from loud music and customers outside the licence holders premises. The location of Bar Moda is approximately 50 metres from the property.

The diary records that music can be heard at [REDACTED] Queens Road between the hours of 10:00 and 02:00 hours beginning on Fridays and ending in the early hours of Sunday morning. The diary indicates that noise is also generated by customers sitting at the tables and chairs outside the premises.

Correspondence

Since joining the council at the beginning of September 2013 I have routinely updated the licence holders of the complaints received by the council. Throughout my contact with Bar Moda I have met the licence holders Richard and Katie Martin on site and have corresponded with them. I attach document 4, list of correspondence sent between September 2013 and February 2014.

The letters show that the licence holders have been informed of complaints received and in addition I have periodically offered advice and guidance.

Witness Statements

To support the claims made by the occupants of [REDACTED] Queens Road I requested that members of the out of hour's team monitor the noise. I attach statements from council officers who are part of the out of hour's team, documents 5, 6, 7 & 8.

On Saturday 9th November 2013 Scott Lawson, Senior Technical Officer and Claire Worth, Administration Officer were called by the councils out of hours coordinator and witnessed noise from amplified music identified as coming from Bar Moda. The music was audible in nearby Russell Street contrary to the premises licence and nearby Queens Road the location of the principal complainants. The period of noise experienced by the officers was between the hours of 23:00 hours and 00:30 hours. The officers met Mr Martin on site and drew his attention to the disturbance caused by the amplified music and asked him to reduce the level of music, document 5.

On the 26th November 2013 Stewart Bryant, Environmental Protection Officer was called by the councils out of hours coordinator at 22:00 hours. Stewart Bryant identified that loud music identified as coming from Bar Moda was clearly audible in Russell Street which is contrary to the premises licence. In addition the officer witnessed noise within the principal complainant's home in [REDACTED] Queens Road at approximately 22:54 hours. From this location he reports that loud music and a heavy base beat was clearly audible in the complainants flat on the first floor of the premises. The officer met Mr Richard Martin who is one of the premises licence holders and drew his attention to the disturbance caused by the noise, document 6.

The statement dated the 3rd March 2014 provides information by the councils Senior Licensing Officer relating to the breaches of conditions attached to the permit issued to Bar Moda by East Sussex County Highways Permits in leaving their tables and chairs outside of the premises beyond 23:00, document 7. The licensing officer as part of his investigation obtained DVDs, referred to in his statement showing breaches of the highway permit on the 11th October 2013.

The Principal Complainants

As part of the investigation the principal complainants have provided statements the details of which are summarised below:

1. The statement dated the 18th February 2014 from complainant A of [REDACTED] Queens Road sets out the circumstances surrounding events between Saturday 1st February 2014 to Sunday 2nd February 2014. The complainant reports being disturbed by noise from music identified by him as coming from Bar Moda between the hours of 10:30pm and 01:30am. The music is described as being so loud that it shook the floor of the bedroom. In addition the complainant reports being disturbed by noise from customers outside the premises. Complainant A also provides emails dated the 27th October and 4th February respectively which clearly sets out the position in relation to this case, document 8.

2. The statement dated the 18th February 2014 from complainant B of the same address reports being disturbed by noise from music and customers identified as coming from Bar Moda. The statement describes how the noise from Bar Moda impacts on the enjoyment of their home document 9.

Summary

In summary from the information collected over the previous months provides evidence that noise is generated through the playing of music on the premises (Bar Moda) and customers who stand outside the premises or sit at the tables and chairs provided by the licence holders. Noise escapes from the premises through the windows and doors. The information shows that complaints of disturbance from noise from Bar Moda begin to be received after 22:30 hours and stretch into the early hours of the morning. Officers describe the music as being accompanied by a heavy base beat. Earlier in the report the sound proofing measures are described as rudimentary. The licence holders have been offered advice from council to assist them with compliance with the current licence conditions. Complaints continue to be received about noise from music and customers from the premises.

Conclusion

On the basis of the supporting evidence it is my opinion that the sound proofing measures that are currently in place are insufficient to prevent the escape of noise from the premises. The review does not seek revocation of the licence but it is recommended that the licensable activities in relation to live and recorded music are restricted as set out below until such time that sufficient sound proofing measures are put in to place to the satisfaction of Hastings Borough Council.

Recommendations

It is requested that the committee consider that the following conditions are applied to the license:

- 1) Live music to be restricted to no later than 22:30hours,**
- 2) Recorded music to be background only and not audible outside the confines of the building.**

With the following conditions being attached to the revised licence:

- 1) Noise from music played in the premises shall not be audible outside the confines of the building.**
- 2) Noise from all mechanical or electrical equipment used on the premises shall not be audible as perceived by an authorised officer of Hastings Borough Council outside the confines of the building.**
- 3)Where the premises operates with recorded or live music after 21:00 hours all doors and windows to remain closed, save for access and egress.**
- 4) There shall be no use of external tables and seating after 23:00 hours and all such tables and seating shall be removed by that time every evening in line with the provisions of the licence issued by East Sussex County Council.**

List of Documents: Application for the review of Bar Moda Leisure Limited

List of Documents		
Document 1	Email-Proofing works	Email dated 14 th January 2015 from Richard Martin of Bar Moda outlining sound proofing works to date.
Document 2	Complaints	List of complaints received of noise from Bar Moda since February 2013.
Document 3	Noise Diary	Noise diary kept by the complainants in Queens Road
Document 4	List of correspondence	List of correspondence sent to Mr & Mrs Martin the premises licence holders between September 2013 & February 2014
Scott Lawson (Document 5)	Senior Technical Officer	Statement in relation to noise witnessed to be coming from Bar Moda Queens Road on the 9 th November 2013.
Claire Worth (Document 5)	Admin Officer	Statement in relation to noise witnessed to be coming from Bar Moda Queens Road on the 9 th November 2013.
Stewart Bryant (Document 6)	Environmental Protection Officer	Statement in relation to noise witnessed to be coming from Bar Moda Queens Road on the 26 th December 2013.
Trevor Scase (Document 7)	Senior Licensing Officer	Statement in relation to the investigation of breaches of the Highways Permits issued to Bar Moda.
Complainant A (Document 8)	Resident Queen Street	Statement from complainant A dated the 18 th February 2014 in connection with noise from Bar Moda between Saturday 1 st February 2014 & Sunday 2 nd February 2014.
Complainant B (Document 9)	Resident Queen Street	Statement from complainant B dated the 18 th February 2014 describing how the noise from Bar Moda impacts on the enjoyment of their home

Please tick yes

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

If yes please state the date of that application

Day Month Year

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

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

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

Signature



Date

5th March 2014

Capacity

Principal Environmental Health Officer

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

Post town

Post Code

Telephone number (if any)

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

Notes for Guidance

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