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Please reply to: Darryl White
E-mail address: Darryl.White@swdevon.gov.uk

Dear Councillor

SOUTH HAMS LICENSING SUB-COMMITTEE - WEDNESDAY, 4TH AUGUST, 2021

I refer to the agenda for the above meeting and attach papers in connection with the following item(s).

Agenda No	Item
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- | | |
|----|---|
| 3. | <u>Application to vary the Premises Licence of The Albert Inn, Totnes (Pages 1 - 22)</u> |
|----|---|

Yours sincerely

Darryl White
Democratic Services Manager

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APPENDIX H – Map of location surrounding Albert Inn, Totnes



- █ = Albert Inn – licensed premises
- █ = Representations received in objection
- █ = Representations received in support

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SUMMARY OF STATEMENT FOR LICENSING SUB-COMMITTEE

Your statement below will be read out should you be unable to attend the hearing.

These are the key points I intend to raise at the Licensing Sub-Committee meeting:

Application: **Variation to Premises Licence**

By: **Mr Giles Hawkins**

of: **Albert Inn, 32 Bridgetown, Totnes, TQ9 5AD**

Name of premises: **Albert Inn, 32 Bridgetown, Totnes, TQ9 5AD**

Key Points		
Which of the four licensing objectives does your <i>application, representation or objection</i> relate	(✓)	Please enter a summary of your key points in the table below. Please use an additional page if necessary
Prevention of crime & disorder	x	Reference to a condition that is in the operating schedule. Open containers of alcohol shall not be removed from the premises, except for consumption in any delineated external area as shown on the plan attached to the licence.
Public safety	<input type="checkbox"/>	
Prevention of public nuisance	x	A sound reducing fence has been erected costing £1500. The smoking shelter and garden have clear notices reminding patrons to be respectful of the neighbours. Regular checks of the outside are made by the DPS and staff. Records of checks to be kept.
Protection of children from harm	<input type="checkbox"/>	
Your Signature:	<i>Giles Hawkins</i>	Your address: ALBERT INN 32 Bridgetown Totnes TQ9 5AD
Name:	GILES HAWKINS	

Photographs of premises

Proposed area (will include enclosed bin area along the store wall)



Patio garden



Smoking area



Sound proofing fence



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I strongly object to the variation to the premises licence in respect to both the change to the licensing hours and to the extension to the outside licensed area.

This will come as no surprise since I have raised concern to the council (and pub) over the past years. However, with COVID disruption in the last year and travel curtailed for months there has been a lapse in correspondence for obvious reasons.

The pub has flouted their dusk licensing rules over the past years (the council are aware) and have had on multiple occasions people drinking outside to way past dusk (when it's dark) covid or no covid.

This flouting of the rules has caused an extended period of noise later into the evening which is unacceptable and of course breaking the law. This extended period of noise is exacerbated for me since the pub garden is on the same level as my upstairs living area with tables / chairs within a meter of my windows (as per photo pub garden to left and to the right my house). This means I can't open my windows if people are in the pub garden because of the noise / smoke. Even with the windows closed the noise can be heard over the TV and is not relaxing and is somewhat akin to having unwelcome

guests in my home. The new pub fencing has done nothing to reduce the noise.



The pub has an outside dusk licence and regardless of which dusk calculation you take (most of us would take civil as per the table) having had a quick look this only reaches 11pm on two months of the year in terms of astrological dusk and is nowhere close to 11 under the other dusk calculations.

for all licensed areas including the smoking area. That way the pub still enjoys the garden during the summer months but I retain some respite during winter / autumn months and also later in the evening past dusk (assuming the rules do not continue to be broken which is why we currently have a problem). With an 11pm license for 365 days of the year I will have no respite from noise nuisance. I would therefore

Sun Set	Nautical	Astronomical	Civil	
January	17.22 to 17.58	17.58 to 18.32	16.49 to 17.22	11pm licencing
February	17.54 to 18.28	18.28 to 19.02	17.24 to 17.54	5.5 hours Longer
March	18.39 to 19.12	19.12 to 19.45	18.10 to 18.38	5 hours longer
April	20.25 to 21.02	21.02 to 21.40	19.44 to 20.25	4.5 hours longer
May	21.00 to 21.41	21.41 to 22.28	20.57 to 21.00	2.5 hours longer
June	21.26 to 22.12	22.12 to 23.09	20.51 to 21.26	2 hours longer
July	21.32 to 22.18	22.18 to 23.15	20.56 to 21.32	1.5 hours longer
August	21.04 to 21.44	21.44 to 22.29	20.31 to 21.04	1.5 hours longer
September	19.39 to 20.12	20.12 to 20.47	19.10 to 19.39	2 hours longer
October	19.03 to 19.36	19.36 to 21.10	18.35 to 19.03	3.5 hours longer
November	17.22 to 17.56	17.56 to 18.30	16.51 to 17.22	4 hours longer
December	17.10 to 17.46	17.46 to 18.21	16.37 to 17.10	5.5 hours Longer
				6 hours longer

The pub are therefore requesting that you increase the licensing hours for 6 months of the year by circa 4 hours per day and for the other 6 months 1 to 2 hours per day. This is a ridiculous increase in licensing hours for a pub in a small residential area in close proximity to housing. Why does the pub need to have such a dramatic change to their outside license that has stood for years? This to me is demonstrating a of lack of respect and understanding of the the neighbours and neighbourhood. Also demonstrated by the fact we found out about this requested change by happy accident.

I do not support this change of licensing hours and would prefer to keep to dusk (which ever dusk is assigned - my preference is for civil) for all licensed areas including the smoking area. That way the pub still enjoys the garden during the summer months but I retain some reprieve during winter / autumn months and also later in the evening past dusk (assuming the rules do not continue to be broken which is why we currently have a problem). With an 11pm license for 365 days of the year I will have no reprieve from noise nuisance. I would therefore

suggest you continue as aforementioned with dusk as per the current licensing rules but specify which dusk but certainly NOT a blanket 11pm. Dusk is not a difficult concept - if it's dark - it's gone past dusk! Even the Royal Parks work to dusk opening. If you are determined to fix a time rather than dusk I would not support an outside license beyond 21.00 hrs.

Next moving to the point of the extended licensed area outside. Given the general noise from the pub garden post dusk which I find unacceptable I would suggest no more space is added given this would mean more people generating more noise.

I would also suggest due to the noise nuisance generated from people alone since the licence is being discussed we also look to remove from the licence the authorisation to play or stream any visual or audio in / into the pub garden and to limit the number of people.

It is clear that in earlier years the reason why the pub caused little problem was because there was a grasp of dusk and any noise up to this point was and would continue to be accepted but for the past years we have been corresponding dusk has not been continuously observed so the noise is over an extended time and therefore of an irritation.

It is therefore accepted that listening to noise during current dusk licensing hours (within reason) is part and parcel of living near a pub. It would (and certainly is)

unacceptable listening to this noise over an extended period of time which a licence beyond dusk would bring. Please remember we are talking here about a pub in a small residential area and not a pub in the main town high street.

I also comment that if a pub cannot follow the current rules then an extended licence could bring with it further challenges.

I am also concerned that if a pub in a small residential area is licensed till 11 pm outside it will have a detrimental impact to the houses prices as the noise nuisance would increase.



Sun 25/07/2021 13:49

[Redacted]

Re: The Albert

To ■ Naomi Stacey

Not sure what difference it makes recorded on a form or email but here is your form completed - this shows noise post dusk on multiple occasions and causes a noise disturbance for me. Plus clearly it is breaking the licensing rules.

This has been going on for some time that you make me prove noise and nuisance rather than you addressing the licence breach. Dusk as you said changes through the months but I think it's safe to say if it's dark - dusk has been and gone.

Statutory Nuisance Diary Sheet

All parts must be fully completed
If known/applicable

Albert Inn, Totnes	
Your NAME	[Redacted]
Your ADDRESS:	[Redacted]
Your Landline number : <i>If applicable</i>	/
Your Mobile number: <i>If applicable</i>	[Redacted]
Your Email address: <i>If applicable</i>	[Redacted]
ADDRESS COMPLAINED OF:	ALBERT INN, TOTNES
NAME OF OCCUPIER <i>If known</i>	GILES HAWKINS
Have you spoken to the person causing the problem about this issue? Please give details:	NO. THEY DIDNT FOCUS UP ON EMMC SUGGESTING HARMFUL
Have you written to them? Please give details:	YES EMMC
Was either approach helpful – if only for a short time? Please give details:	NO
Formal intervention by us may ultimately end in Court action. Are you prepared to attend Court and give supporting evidence if required?	Yes / No (If we are unable to consider Court action, if appropriate, because you are not prepared to give evidence, this limits what we can do to help you).

Date	Time (Use 24hr clock).		Description of Nuisance	How it affected you
	Start	Finish		
	14.00 hrs	15.30 hrs	Smoky bonfire	Smoke throughout the house, had to close windows on hot day.
	23.30 hrs	02.30 hrs	Loud music & shouting	Woke me from sleep, difficult to get back to sleep.
25/6/21	Post dusk		LONG NOISE FROM THE CLONTARIE HOTELS FROM BACK WINDOW	NOISE CAN BE HEARD OVER TV. NOT CLEARLY AND NO INTERFERENCE INTO MY TV
27/6/21	Ditto			
28/6/21	Ditto			
29/6/21	Ditto			
30/6/21	Ditto			
NOT IN DEVON	26 to 23/6			
26/6	Ditto			

This statement consisting of page(s) signed by me is true to the best of my knowledge and belief and I make knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signed [Redacted]

Dated the 25 day of 7 2021

NO: ...of... 31

LOGSHEET

Continue Overleaf

Date	Time (use 24hr clock)		Description of Nuisance	How it affected you
	Start	Finish		

Continuation sheet

27/6/21	Ditto			
29/6/21	Ditto			
30/6/21	Ditto			
2/7/21	Ditto			
NOT IN DEVON	6/7/21 to 25/7/21			

On 4 Jul 2021, at 23:42, [REDACTED] wrote:

I am reporting that the pub has operated outside its licensing hours of dusk in the garden on the following occasions.

25/5

27/5

28/5

29/5

30/5

Not in Devon 2/6 to 23/6

26/6

28/6

29/6

30/6

2/7

Clearly there will be more occasions since I am only in Devon for shortened periods of time.

I don't have to (and never have had to) prove a noise disturbance since this is about breaching of licensing rules post dusk.

The reason why I know there are people in the pub garden post dusk is because I can hear them even with my windows closed and TV on. This is unacceptable since I don't want to hear any noise past dusk and nor should I need to. If it continues then I also won't want to hear noise pre dusk.

All relaxations for covid will be ended from Monday if the usual news rumours are to be believed so I expect you to withhold the licensing rules and take action for further rule breaches at that stage. COVID can no longer be a excuse for breaking the law and you not doing your job.

Here is a sound recording taken one evening in my kitchen at 22.35. This is way past dusk which was at 10.15 on this particular evening. You can hear what it's like which actually is unacceptable at any time of the day but particularly so past dusk.

I have no idea why the noise in the last couple of years has got worse other than the constant breach of dusk licensing.

I ask once again can I see their licence please and when it was changed to incorporate the new part of the garden they built over their garage - isn't this free for public to view?

<Pub recording 29 June.m4a>

On 27 May 2021, at 16:59, Naomi Stacey <Naomi.Stacey@swdevon.gov.uk> wrote:

Dear [REDACTED]

Thank you for your reply.

I have attached the diary sheets if you wish to complete these, so that we can open a noise nuisance case.

As dusk varies so much throughout the year, from 5pm in the winter to after 10pm in the summer, it would be helpful if you could let us know if there is a specific time that the noise becomes a nuisance to you.

Kind regards

Naomi

Naomi Stacey | Specialist – Licensing
South Hams District Council | West Devon Borough Council
naomi.stacey@swdevon.gov.uk
01803 861268

From: [REDACTED]
Sent: 26 May 2021 17:07
To: Naomi Stacey <Naomi.Stacey@swdevon.gov.uk>
Subject: Re: The Albert

Thanks.

As I keep saying it is a claim that a company does not follow the licensing laws - they are licensed in the garden till dusk. They are still breaching this with people in the garden till circa 11 pm. I see there is still nothing that can be done until the relaxed laws cease and we return to normal but that stage I expect you to act even this time.

Secondary to this is the noise but that only becomes a nuisance because they are breaking the dusk licensing laws. So I can put up with some noise but I expect it to end in line with dusk when they should all be in the pub and not in the garden.

Yes I can still hear the noise from the pub in my house even with the windows closed even though they have apparently added a soundproofing fence.

So to be clear this is driven primarily with breaking licensing rules which it seems currently are permitted.

Secondary is the noise.

Please open another case and I will continue to report but I don't expect you will do anything as you have not tackled them about breaking licensing rules even pre covid! In the last it has never been such a major problem as the time the noise was made was much limited due to dusk being observed and that hasn't been the case for some time even pre covid.

On 26 May 2021, at 16:45, Naomi Stacey <Naomi.Stacey@swdevon.gov.uk> wrote:

Dear [REDACTED]

Thank you for your email.

Due to Covid-19, the Government has continued to encourage businesses to use outside areas and to enforce strict social distancing measures, meaning that the capacity within premises remains limited. In addition, The Business and Planning Act 2020 which came into effect last summer, has relaxed the off-sales rules until the end of September 2021. I can confirm that our approach is therefore the same as in my previous email.

However, as explained before, if you are experiencing a nuisance from the premises we will open a noise nuisance case. This will require you to complete diary sheets so that an assessment of the noise can be made and action will be taken as appropriate.

Please let me know if you would like to make a complaint about noise from The Albert Inn and I will send you the documentation.

Kind regards

Naomi

Naomi Stacey | Specialist – Licensing
South Hams District Council | West Devon Borough Council
naomi.stacey@swdevon.gov.uk
01803 861268

From: [REDACTED]
Sent: 25 May 2021 22:29
To: Naomi Stacey <Naomi.Stacey@swdevon.gov.uk>
Subject: Re: The Albert

Evening

I write again to enquire if the licensing rules are still being relaxed due to covid and at what stage the covid excuse for breaking the rules will be relaxed.

Thanks

On 27 Aug 2020, at 21:20, [REDACTED]
[REDACTED] > wrote:

<New Recording 19.m4a>

[And this is how noisy it is in my place even with the windows closed.](#)

[Can you please acknowledge my mails or I'll escalate](#)

On 27 Aug 2020, at 21:00, [REDACTED]
<[REDACTED]>
wrote:

Dusk tonight 8.44. 9 pm and braking
licensing tules with no sign of being
moved on. I can hear them in my house
<image0.jpeg>

On 26 Aug 2020, at 22:00, [REDACTED] wrote:

I write again as the pub still continues to have people drinking in the garden beyond dusk. It's 21.55 tonight and no sign of the noisy punters moving out of the garden. Its not every night but I don't think covid rules permit you to ignore breaches of licensing rules? I can see no reference in the govt website giving you these powers. The garden is only licensed till dusk. Please do your job and ensure they follow the rules.

<image0.jpeg>

On 15 Jul 2020, at 16:59, [REDACTED] wrote:

Thank you.

Not great news any of this from my perspective as we well know the pub has not religiously abided by the dusk rule and in general has caused a nuisance hence the emails in 2019/20. Neither have the pub completed the works they were going to do to help lower the noise levels.

Clearly I have not been down to Devon until just recently due to government restrictions on travel and will not be there continuously for some time. However interesting as soon as I have been there - same as ever with the noise level and loose interpretation of dusk.

Clearly as you say residents can suffer for the time being as the Govt seem to feel pubs should be selling alcohol to the detriment of everything else - what would we all do without drink! I'll keep a record and we can address again hopefully with some force of law when covid has been and done.

On 15 Jul 2020, at 16:21, Naomi Stacey <Naomi.Stacey@swdevon.gov.uk> wrote:

Dear 

Thank you for your email, which Sarah has forwarded to me.

The condition relating to the use of the garden ceasing at dusk has not been removed from the premises licence.

However, due to the situation that businesses are now facing because of the Coronavirus pandemic, many are struggling to meet the social distancing restrictions. The Government has been encouraging businesses to use their outside areas to allow them to continue to operate while lowering the risk of spreading the virus. The clear message to Licensing Authorities has been to support businesses as much as possible to do this. You may be aware of the Business and Planning Bill 2019-20 which is currently making its way through the House of Lords. This proposes that all premises licensed for the sale of alcohol to consume on the premises will automatically be able to sell alcohol to take away during their currently licensed hours. Any restrictions on off-sales being in sealed containers (such as on the Albert Inn licence) would also be removed. If approved, as it is looking likely it will be next week, these changes would last temporarily until the end of September 2021. The Government is doing this to help and encourage businesses to use outdoor areas throughout their usual operating hours.

I understand how frustrating it must be that the pub appears to be in breach of their condition. However, due to the current situation, we will not be enforcing this condition unless there is also evidence that they are causing a substantial disturbance to you (and/or the neighbourhood in general). If that is the case, please let us know and we will open an investigation which will require you to keep noise diaries.

Kind regards

Naomi

Naomi Stacey | Specialist – Licensing
South Hams District Council | West Devon Borough Council
naomi.stacey@swdevon.gov.uk
01803 861268

From: [REDACTED]
Sent: 10 July 2020 22:14
To: Sarah Harcombe <Sarah.Harcombe@swdevon.gov.uk>
Subject: The Albert

Evening

I hope you are keeping well.

I write again re the Albert pub. My understanding is they have licensing outside till dusk. Sunset at present is 9.30 ish and it's dark by 10 - I am therefore wondering why there are people still in the beer garden gone 10. Clearly I can't see if they are still drinking but would find it strange for them to still be outside not drinking in the pub. Have you changed the rules and / or am I misunderstanding what dusk is.

Picture taken at 22.12 - my camera takes night photos in case you think it's daylight.
<image0.jpeg>

Thanks

Kind regards

Summary of statement for Licensing sub-committee

Albert Inn, 32 Bridgetown, Totnes, TQ95AD

The Albert Inns outside space is completely surrounded by private housing and gardens. When these houses were built The Albert Inn had no outdoor space. Over the years the outdoor space has been developed a small piece at a time. It sits on a raised platform so that any noise in the space has very little baffling and carries a considerable distance. (We are aware that the Inn has recently constructed a fence during Covid ,but even with the limited use it has had since restrictions easing it does not seem to have made much difference).

The noise levels have increased substantially over the years to an extent that several times the Inn has been requested to supervise the noise levels, to no avail. We have had times that even with our doors and windows shut, the television on we could hear loudly the Inn. On occasions the language emanating from the inn has been completely unacceptable in our living room.

The Albert Inn also disregards it's current licensing hours for it's outdoor space.

We have noted a few of these.

Friday 31st July 2020	dusk 21.34	closed much later
Saturday 8th August 2020	dusk21.24	closed much later
Thursday 13th August 2020	dusk21.14	closed 21.50
Saturday 15th August 2020	dusk21.10	closed much later
Tuesday 15th September 2020	dusk20.29	pub still open 21.10
Thursday 17th September 2020	dusk 19.56	pub still open 21.00
Wednesday 21st October 2020	dusk 18.43	pub still open at 22.00

We would be unhappy with anything that gives longer hours and more use, (COVID restrictions have made life much more pleasant).

The noise levels are substantial and we feel the publican should be much more aware of the residents that surround him and that his current restrictions are more than adequate.

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