

Licensing Act 2003 – Representation Form

Personal/Business Details	
Name: Brian Sutcliffe	
Address:	
[REDACTED]	
[REDACTED]	
[REDACTED]	
Email: [REDACTED]	
Contact Telephone Numbers:	[REDACTED]

Premises Details <i>(Please give as much information as possible)</i>
Application Ref: M213237
Name of Premises: Nala Tapas and Cocktail Lounge
Address of Premises:
135 – 137, West Hill Road, Bournemouth, BH2 5EG

<p>Reasons for Representation. Please, give information under the relevant Licensing Objective. <i>(Please note you are not required to complete all the boxes unless you feel it is relevant.)</i></p>
<p>The Prevention of Crime and Disorder:</p>
<p>The Prevention of Public Nuisance: I am aware that the law requires that licensing and planning are required to operate independently. A planning application for change of use of this venue from Hotel to a Restaurant and to develop the outside area was submitted in August 2021. Approval was not granted until June 2023. The first application for a drinks license to support the operation of a restaurant was made in March 2021. At this time the premises had planning approval to operate as a hotel. The relevant Home Office Guidance Issued under Section 182 of the Licensing Act 2003 states: “Where businesses have indicated, when applying for a license under the 2003 Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers should consider discussion with their planning counterparts prior to determination with the aim of <u>agreeing mutually acceptable operating hours and scheme designs.</u>” Subsequent applications to vary the license were made during the period that the planning application was under public consultation and review. It is now evident that throughout this period there were no representations made by the planning authority to the licensing authority and no discussion between counterparts with the aim of agreeing mutually acceptable operating hours. (we are instead faced with very substantial differences between the planning authority and licensing authority) The Planning authority, acting independently of the licensing authority, has properly assessed the public representations and has reasonably assessed the risks of <u>public nuisance</u>. Accordingly in order to mitigate the risks of <u>public nuisance</u> the planning approval, as granted in</p>

June 2023, lays down conditions on noise limits, opening hours and number of covers.

In summary the specified planning conditions are:

- The restaurant use hereby permitted shall not be open to customers outside the following times:
8:00a.m. - 11:00p.m. Sunday to Thursday
8:00a.m. - 11:30p.m. Friday to Saturday
- .The external seating area shown on drawing number 102/GA/03 shall accommodate not more than 28 covers.
- The external seating area shall be permitted to operate only between the hours of 0800 and 2200 Sunday to Thursday; and 0800 and 2300 on Friday and Saturday.
- No amplified music shall be played nor any public address system shall be used within the curtilage of the premises at any time.
- Music shall be limited to background music only, and no music shall be outside the hours of 0800 to 2300.

The granted license opening times are :

- Monday - 10:00 to 00:30
- Tuesday - 10:00 to 00:30
- Wednesday - 10:00 to 00:30
- Thursday - 10:00 to 02:00
- Friday - 10:00 to 02:00
- Saturday - 10:00 to 02:00
- Sunday - 10:00 to 00:30
-

It is clear that there is a very substantial difference between the Planning Authority and the Licensing Authority conditions. (It is difficult to understand why it could possibly have been considered reasonable to allow opening to 2.00 am on Thursday in a residential area where residents need to work and attend school etc., on a Friday)

The licensing authority has clearly not taken cognizance of the fact that this is a quiet residential area with a number of up market hotels and restaurants which typically cease trading at about 9.00 pm. This is not the right location for the nightclub and Shisha Bar which is now operating within the Nala lounge.

May I also observe that many publicans claim that the enactment of the smoking regulations in 2007 has severely impacted on the pub trade. Smokers are typically relegated to open smoking shelters at the rear of the licensed property. What the Nala lounge has demonstrated is that if an illegal smoking lounge is made the center of a venue, then it will thrive. At weekends there are typically 40 or 50 people taking advantage of this smoking lounge. If the law was to be enforced, then these patrons would need to smoke on the public highway causing additional public nuisance. (there is no space within the curtilage of the premises for the construction of a legal smoking shelter) However, if the law was to be enforced the business would no longer have an unfair advantage over other venues within the area and would no longer attract such large numbers of drinkers and smokers. The issue is that there are complexities of overlapping issues and breaches which cannot be addressed individually. Any single resolution will impact on another and may result in an increase in public disruption,

Legally, however the most restrictive conditions must apply. As such the law is paramount and the planning approval takes precedence over the licensing conditions in respect of opening times. This is not what is happening. The lounge provides live and amplified music through to the early hours as are listed in the license not those prescribed by the planning approval. Consequently, and as predicted in the review of the planning application, the operation is causing serious public nuisance that has generated reasonable and justified public nuisance complaints.

(In assessing complaints, the authority must give due consideration to the required disclosures of property owners on property information form TA6. Residents are very wary of making official complaints that must be subsequently disclosed when the owner sells the property)

The revision to licensing hours proposed in the Review are still not acceptable for a residential area and is not necessary for a licensed restaurant. However regardless of the licensing hours , it is the more stringent limits imposed by the planning approval that must prevail. The situation has developed to a state where there are overlapping conflicts and breaches, the shisha lounge is not legal and the building has been constructed without planning approval. It can serve to suppress noise levels but if it has to be demolished or 50% permanently opened then it will not suppress noise levels. With such a situation there must be a clear holistic base line understanding of how the venue will operate legally. The concerns are that pursuing breaches on a piecemeal basis rather than holistically could result in an increase in Public Nuisance.

Public Safety:

The Nala Lounge has been operating as a Shisha lounge; regardless of whether the roof/windows are open or closed, any smoking within the lounge is illegal and is unsafe. It is evident that there are misunderstandings that need to be corrected. Section 2 of The Smoke-free (Premises and Enforcement) Regulations 2006 states that Premises are substantially enclosed if they have a ceiling or roof [see para 4 below] but there is—(a)an opening in the walls; or (b)an aggregate area of openings in the walls, which is less than half of the area of the walls, including other structures that serve the purpose of walls and constitute the perimeter of the premises. (3) In determining the area of an opening or an aggregate area of openings for the purposes of paragraph (2), NO ACCOUNT IS TO BE TAKEN OF OPENINGS IN WHICH THERE ARE DOORS, WINDOWS OR OTHER FITTINGS THAT CAN BE OPENED OR SHUT. (4) In this regulation “roof” includes any fixed or moveable structure or device which is capable of covering all or part of the premises as a roof,

It is evident that smoking within the lounge area, regardless of whether windows are open, is illegal. It is a criminal offence.

Nonsmokers/ and employees, waiters etc., are being subjected to passive smoking which is an offence under the Health and Safety at work Act.

There also appears to be a lack of signage as required by legislation to designate smoking and nonsmoking areas and noting the dangers of smoking to health.

The Protection of Children from Harm:

The lounge advertises itself as a family restaurant. I have noted smoking within the lounge during the afternoon and early evening. Any children dinning with parents will potentially be subjected to dangerous levels of passive smoke.

I do not wish my details to be include in the Public Documents for the following reasons:

I declare that the information I have provided is true and correct.

SignedBrian Sutcliffe

Date.12/11/2023.....

From: [BCP Council - Do not reply](#)
To: [Licensing Com](#)
Subject: Contact us enquiry for Licensing - CU-122069
Date: 27 November 2023 12:59:19

Dear Licensing,

You have the following message from a customer using the Contact Us option on the website.

Customer first name - Artur

Customer last name - Gebka

Customer email address - [REDACTED]

Customer message - Hello, This is in regards to a blue note left on the door - review of premises license - Nala Tapas and Cocktail Lounge 135-137 West Cliff Rd, Bmth, BH2 5EG .

I would like to voice my concerns regarding this recently opened venue. It was supposed to be a restaurant, as per the description of one of the joint owners in the local newspaper - <https://www.bournemouthecho.co.uk/news/23652055.bournemouth-turkish-restaurant-nala-lounge-opens/> and as much as probably most of the locals have embraced this idea, the place actually turned to be nothing near to a restaurant, but rather a very busy night club open to late hours, selling drinks and shisha to large crowds of alcohol and drug intoxicated club goers (yes, sometimes cars stop nearby and clearly some stuff is being sold by the open windows). During the summer months, the CLUB was packed with people, with noisy music playing constantly, people standing in hordes on the pavement smoking or drinking, cars passing by, and constantly using loud signals to warn the ones crossing the busy street. By all means, this is not the "al-fresco dining" concept we all expected here. This part of West Cliff has now become loud, messy, and unsafe - even the simple evening trip to the local NISA store opposite for groceries is now a challenging and intimidating task. I would like you to please forward this observation to the relevant team in the BCP council before the 11th of December before the license review takes place. Thank you very much in advance. Artur Gebka

Reference - CU-122069

If you believe you have been sent this message in error please forward it to: enquiries.bournemouth@bpcouncil.gov.uk

Kind Regards,

Customer Services Team

enquiries.bournemouth@bpcouncil.gov.uk

From: [REDACTED]
To: [Tania Jardim](#)
Cc: [Licensing Com](#); [REDACTED]; [Andrew Hill](#); [REDACTED]
Subject: Licence review Nala Lounge Ref: 213237
Date: 08 December 2023 15:50:37

Dear Tania

I would like to support the fact that the licence for the Nala Lounge should be reviewed on the grounds that it currently causes the following issues:

Public nuisance - the noise and disturbance from this venue which is allowed by this licence to be operate until 2.00 am Thursday-Saturday is unacceptable. We own two properties directly opposite this venue which are run as quality family holiday lets. All our windows face this venue. Our guests and other residents in the building have publicly complained about the noise from this venue. The number of people that are going to this venue for late night drinking and parties, which the hours of this licence allows for, far exceeds the number expected to visit if it was a restaurant, as per its planning class. This causes a noise nuisance directly to us from talking, socialising, music, late night noisy pedestrians and extra late night traffic. Car doors slamming in the early hours of the morning, cabs waiting outside with their engines running. People shouting. Westcliff is a quiet mostly residential area in which residents do not want late night drinking party venues due to the noise and anti social behaviour that this brings. The licence hours seem completely unreasonable for local residents who need to sleep to go to school or work. The hours of operation that were approved by Planning for this restaurant were in keeping with local residents needs. Now it is not possible for our guests or tenants to open the windows at night, when it is usually quiet in Westcliff, due to this noisy venue.

It is unreasonable to include Thursday night as a late night as it is a school and work night as the noise is a nuisance which adversely affects sleep and stress levels.

The outside area offers little privacy to its neighbours or sound mitigation during the additional hours that this licence allows over the agreed planning permission.

Public safety - The hours and type of drinking/night club operation that this licence allows for means that many more people can attend as they do not have to be seated. This causes people to gather outside the entrance to the venue which is located near the traffic lights. Pedestrians have to walk in the road to pass. This is hazardous for pedestrians and motorists. Now we find that cars are being parked right on the junction on the double yellow lines. This was not happening before the Nala Lounge started operating. This restricts visibility for other motorists and pedestrians.

Affecting local businesses - The problems outlined above have and will continue to cause our business to suffer as guests and tenants will not want to come to somewhere they cannot have peace and quiet at night. Since the Nala Lounge has been operating as a late night party/drinking venue, guests have posted reviews publicly online that our property is not suitable for families due to the late night noise from the 'nightclub' opposite. We have spent a considerable sum of money to provide quality holiday let apartments and have successfully hosted families for many years. Families are our target market in this area due to its location near the beach and the family friendly amenities that Westcliff has to offer.

As for staying open for 24 hours over New Year, not only will this cause an unacceptable noise nuisance overnight it will also encourage party revellers not to use any accommodation as they can party there all night, potentially leaving in a undesirable state the next day. This is not what is wanted in the Westcliff area.

The hours approved by the planning permission were to safeguard the amenities of occupiers of adjoining and nearby properties and in accordance with the policies CS38 and CS41 of the Bournemouth local plan.

I would like to see the hours and conditions of the planning permission be enforced as the operating hours. Our biggest concern about noise is the outside area. If all noise can be contained inside the building with appropriate windows and doors and the 'outside' area cleared by 10pm in the week and 11 pm at weekends (Fridays and Saturdays) as per planning then that would be more acceptable. However our concern would be how the outside

area would continue to be managed. It has been used as a late night outside drinking, smoking/music area and has proven to be a great noise nuisance.

Kind regards

[Redacted signature block]

From: [Peter Curtis](#)
To: [Tania Jardim](#)
Cc: [Licensing.Com](#)
Subject: Licence Review Nala Lounge Ref 213237
Date: 09 December 2023 18:06:29

Dear Tania,

I write to complain about the current terms of the licence on Nala Lounge which allows the property to be open until the early hours of the morning, serving drinks until 02:00 Thursday to Saturday and until 23:30 on Sunday to Wednesday nights. I understand that the current licence allows for live and recorded music being 20:00 and 23:00 hours although the property owners have been ignoring that restriction and blasting out loud music well past that time and usually until closing time.

My property is a first floor flat directly opposite the Nala Lounge and has a section 106 restriction on its use for holidays during the spring-summer months.

I don't live at the property but have stayed over on a few occasions since the Nala Lounge started operating as a nightclub - in breach of planning regulations - in July 2023.

Nala Lounge has been a major problem for me and is likely to affect my business in that the noise generated by the property until the early hours of the morning will put most potential guests off choosing the property for a holiday. The noise is bad enough in the colder months when windows can be shut but is a nightmare in warmer weather when people want to open the windows.

From my understanding, the owners of the Nala Lounge have already erected a building in the "outside" area without seeking planning permission and, when caught out, submitted a new retrospective proposal for the area in front of the main building to allow it to be built for use as a restaurant. Fortunately, that was rejected but they are likely to appeal or submit another application, I expect.

I have no objection to the building being used as a restaurant and operating within normal restaurant hours - until 22:30 like all the other restaurants in the area. However, the property is actually being used as a shisha lounge/ nightclub and operating until 02:00 some nights and midnight on every night it would seem. The venue generates loud noise from the music system and, as there are shisha pipes in use, requires good ventilation hence the loud noise cannot be suppressed in any way. The "outside" area is not being used for dining as there are very few dining tables in it. The loud noise (music and human hubbub caused by people talking loudly over the music) is unacceptable in itself but is accompanied by antisocial behaviour as the often drunken visitors stumble out of the premises in the early hours of the morning shouting and yelling goodbyes to friends.

The area around the Nala Lounge has very little on road parking available so cars belonging to people attending the Nala Lounge often park on the double yellow lines around our block, obstructing vehicle access to the parking spaces of our visitors and on occasion taking our parking spaces. Needless to say, there are no traffic enforcement officers around at these times to issue tickets for the parking offences which I consider to also be antisocial behaviour.

The Nala Lounge is situated in a quiet residential, conservation area and the location is not suited to locating a noisy nightclub with the resultant negative behaviour that accompanies it. Had the owners of Nala Lounge actually been honest with their plans to open a nightclub in that location, I feel sure that it would never have been approved so I'm urging you to review and reduce the operating/licenced hours now. If the operating hours are not restricted in line with the other restaurants and pubs in the locality, it will lower the standard of living for local residents and visitors as a nightclub is not required in the location.

In my experience, nightclubs are required to be closed buildings which do not generate unsuppressed noise and are not located in quiet residential areas. Knowing that such a building is directly opposite my flat would put most families off booking any of the flats in our block or nearby making the area less desirable for that use and we will need to consider whether we need to take action to remove the section 106 restriction on our flats. Alternatively, perhaps we should do as the owners of the Nala Lounge have done and just completely ignore the rules most decent people abide by.

As an indication of the audacity of the owners of Nala Lounge, I noticed that, until recently, they were advertising a number of party events on their Facebook page which will be noisy and antisocial and which will go on until 02:00 - causing misery for people living or staying nearby.

Apart from the noise and general nuisance problems, I have a concern for public safety as the vast numbers of people who visit the property after pub closing time results in an overspill of people outside the front of the building onto the pavement creating an obstacle for pedestrians using the path who often have to walk in the road creating another nuisance and risk to pedestrians' safety. The lack of nearby parking results in cars on double yellow lines creating another potential hazard for drivers and pedestrians.

I understand that the nightclub is applying to stay open 24 hours over New Year which is likely to be a real problem for the holiday visitors booked into my flat over the period so I am urging you not to approve the application.

The Nala Lounge operating hours approved by the planning department were agreed to safeguard the amenities of occupiers of nearby properties in accordance with policies CS38 & CS41 of the Bournemouth local plan. By agreeing different, much extended, licenced hours for the property, this has caused misery for local residents and guests who have had to endure loud music, traffic congestion and anti social behaviour until the early hours of the morning throughout the Summer.

I urge you to review the licence to factor in the views of local residents and visitors like myself.

Regards,

Peter & Lynn Curtis

██████ Westcliff Apartments, 131 West Hill Road BH2 5PH

Sent from my iPhone

From: [Simon Grimston](#)
To: [Licensing Com](#)
Subject: Nala Lounge West Hill Road Bournemouth
Date: 11 December 2023 01:27:48

Here is my letter of objection
Prevention of Crime.

Allowing smoking in an enclosed space is an offence. The holder of this premises licence is clearly allowing the smoking of Shisha pipes in the premises contrary to the Health Act 2006.

Planning application 7-2021-2888-M was granted subject to a condition that it was not to trade beyond 11pm. It is in a residential area and this condition was imposed to protect those who live in the area. This condition has not been adhered to and the premises has continued to trade after this time.

The extension out to the pavement was, I understand, built without consent, and in a conservation area, without due regard to following the correct process in law.

Public Safety

The Health Act 2006 ban on smoking was introduced to protect the health of staff and other users of the premises. With blatant disregard of the safety of the public the premises has permitted and encouraged smoking in an enclosed space.

The crowds of people gather around the premises, made worse by the extension built out to the pavement edge so there is nowhere for people to gather outside without blocking the pavements.

The Prevention of Public Nuisance

As the premises has been used in a manner contrary to the planning consent, there are complaints about noise nuisance disturbing families trying to sleep, exactly as was predicted in the planning application comments.

For these reasons it would seem obvious that the current licence holder is not fit and proper to hold such a licence and the licence should be removed.

Vice Chair

West Hill Residents Association

Sent from [Outlook for Android](#)

From: [Councillor David d'Orton-Gibson](#)
To: [Tania Jardim](#)
Subject: RE: LICENSING APPLICATIONS RECEIVED FROM 10TH TO 16TH NOVEMBER 2023
Date: 11 December 2023 22:15:11
Attachments: [image003.jpg](#)
[image004.jpg](#)
[image005.png](#)

I think my ward colleague ay have already replied but in case you have not got it, here is the basis of our objections. This licence holding is clearly breaking many laws and so cannot be considered fit and proper to hold such a licence.

Prevention of Crime.

Allowing smoking in an enclose space is an offence. The holder of this premises licence is clearly allowing the smoking of Shisha pipes in the premises contrary to the Health Act 2006. I have seen this myself when walking past the premises late at night.

Planning application 7-2021-2888-M was granted subject to a condition that it was not to trade beyond 11pm. It is in a residential area and this condition was imposed to protect those who live in the area. This condition has not been adhered to and the premises has continued to trade after this time, breaking the conditions of their planning approval. These problems were raised as part of the planning application and the fears of local residents have come about exactly as forecast due to the failure to trade in accordance with the permission granted and with a total disregard for the law. The licence holder either does not understand that getting a licence to trade to a later time than his planning permission does not make this trading lawful.

The extension out to the pavement was, I understand, built without consent, and in a conservation area, without due regard to following the correct process in law.

Public Safety

The Health Act 2006 ban on smoking was introduced to protect the health of staff and other users of the premises. With blatant disregard of the safety of the public the premises has permitted and encouraged smoking in an enclosed space. For a space not to be enclosed it must have PERMANENTLY open walls to at least 50% of the sides. Windows and doors are clearly excluded from that calculations as they can be opened and closed.

The crowds of people gather around the premises, made worse by the extension built out to the pavement edge so there is nowhere for people to gather outside without blocking the pavements, creates a safety issue for the public trying to walk past a group when they have to step into the road.

The Prevention of Public Nuisance

During the planning application process to change from a hotel to a restaurant, local residents expressed concerns about noise nuisance in what is really a residential area. As the premises has been used in a manner contrary to the planning consent, we are now receiving complaints about noise nuisance disturbing families trying to sleep, exactly as was predicted in the planning application comments.

For these reasons it would seem obvious that the current licence holder is not fit and proper to hold such a licence and the licence should be removed.

Councillor David d'Orton-Gibson
Westbourne & West Cliff Ward

Bournemouth Christchurch & Poole Council
T. 01202 126776
david.dortongibson@bcpcouncil.gov.uk
bcpcouncil.gov.uk

From: [Carl Jacolette](#)
To: [Licensing Com](#)
Subject: Ref 213237 Nala lounge
Date: 10 December 2023 22:22:46

Dear BCP Licensing

I believe the Nala lounge is effectively operating as a nightclub and not as a restaurant, I will refer to them as a nightclub in this objection

I am writing to express my strong objection to the granting of a license for a nightclub in the residential area of our community. While I understand the need for entertainment venues, I firmly believe that situating a nightclub in such a location would have numerous detrimental effects on the quality of life for residents.

First and foremost, the noise pollution generated by a nightclub can be a serious disruption for those living nearby. In a residential area, people expect a certain degree of peace and tranquility, especially during nighttime hours. A nightclub's extended operational hours would undoubtedly result in loud music, vehicle noise, and rowdy patrons, all of which would significantly disturb residents' sleep patterns and overall well-being.

Additionally, the potential for increased crime and antisocial behavior is a genuine concern. Nightclubs often attract large crowds, some of whom may engage in excessive alcohol consumption and illicit drug use. This, unfortunately, can lead to an uptick in incidents such as fights, vandalism, and even assault. The safety and security of residents, particularly children and the elderly, should be of paramount importance when considering the suitability of a nightclub in a residential area.

Furthermore, the increased traffic and parking issues stemming from the nightclub's operation are likely to burden the surrounding streets. Residential areas are typically not engineered or equipped to accommodate large numbers of vehicles, which could result in congestion, limited parking spaces, and potential clashes between residents and nightclub visitors seeking parking alternatives.

Lastly, the potential for a nightclub to negatively impact property values in the area should not be overlooked. Homeowners have invested in their properties with the expectation of a certain quality of life and a peaceful neighborhood. The presence of a nightclub, its associated noise and disturbances, may deter potential homebuyers and devalue properties in the vicinity.

In conclusion, it is my belief that granting a license for a nightclub in our residential area would have severe repercussions on the tranquility, safety, and property values of the neighborhood. I kindly urge you to consider the concerns of the residents and place greater emphasis on the welfare of those directly affected by this decision.

We own and run a holiday flat the other side of the road to the Nala lounge and we have received public reviews that our holiday home is no longer suitable for families due to the late night noise and disturbance from the Nala lounge, these reviews were received while the Nala lounge were running against the restrictions in place from bcc planning. These reviews have been very damaging to our business and we are reviewing our possible legal action against them for damages.

If the Nala lounge continues to operate into the night our existing business will be non viable as a family holiday flat.

We have no objection to the Nala lounge running as a restaurant with ambient music, and to normal restaurant opening hours, but No amplified live music and late opening

Thank you for your attention to this matter, and I trust that you will take all factors into account when making your decision.

Sincerely,
Carl Jacolette


West cliff apartments
131 West Hill Rd