

Firstly, we welcome this review. We are doing nothing that contravenes the Licencing Law and continue to build upon the success that we have made of a local amenity that is being enjoyed by so many.

The Woodpecker Bar and Kitchen is a thriving and well managed business. It has improved the whole area and become a hub for the local community. We serve food from 9am – 8pm every day and have outstanding customer reviews, I hope you will take the time to read some of these.

We support local charities and frequently allow The Blood Bike Charity to take over the for the day. We are currently supporting the Children’s Hospice and have our very own Bear, featured in the CHSW bear trail. We host the Braunton Mens Shed club during the summer once a week and we successfully host birthday parties, weddings and christenings.

We celebrate every calendar event by providing activities and things to do for the young and not so young. We are famous for our pumpkin carving events enjoyed by so many. This year we also had a number of Christmas fairs where we offered free stalls to local artists, and craft makers to come along and show case their products. Again, these fairs were well attended and enjoyed by many people.

We own the woodland and meadow behind the Woodpecker and have spent a considerable amount of time and money improving the area and opening up to the general public as a nature trail. Again, this is enjoyed by families who will pop in to the Woodpecker for refreshments when they visit.

I am sad to say that we have experienced problems with the applicants since we opened our thriving business. Far from dampening our enthusiasm, these have made us more determined to provide a much needed amenity that keeps its customers and neighbours happy but the harder we have tried, the more it has become obvious that no matter what we do, we can’t meet the expectations and demands of one neighbouring household.

Our neighbours, The Hayes, have taken it upon themselves to complain about everything and anything, in order to try and make things difficult for us and provoke a reaction.

I would also like to confirm that the ‘Information to support the application’ and the ‘Grounds for review’ is full of untruths throughout, making their documents very misleading.

Their actions have grown to becoming harassment, not only towards us but towards the authorities that they have involved. I am sure that the panel will have access to each and every complaint and how each one was dealt with and if required solved immediately. They bombarded the authorities with lengthy emails, letters and telephone calls , becoming very annoyed when they did not get the outcome they wanted without stopping to consider why that might be.

Whilst most of their complaints and the situations I set out below may appear irrelevant to this case, they are not, they help set the scene for the unfortunate situation we have found ourselves in, proving that The Hayes have built an obsession, want our business closed and to make our lives as difficult as possible.

This initially started with a boundary dispute. We own the bank at the back of the Hayes garden, correspondence went on for months regarding this as the Hayes believed that they owned more

than they actually did. Unfortunately the dispute led to the involvement of police mediation. This ended because the police mediator could not cope with the sheer amount of constant contact from The Hayes, even when they were presented with land registry documents proving that we owned the piece of land. There actually was no need as The Hayes had purchased the document also and therefore knew where their boundary ended. For the sake of peace, we have not taken the land back and The Hayes continue to use it.

I, Tina, recently offered further mediation with Keith, but this was refused.

Please also note that we have been made aware that the Hayes have written to local councillors regarding the management of The Woodpecker. This may have been a fool's errand as we have not had any contact from any local councillors regarding this.

In order to be able to respond directly to The Hayes misleading and mostly untrue license review application I have responded in below to relate directly to each point they raise. It may help if you cross reference my response with the documents they provided.

Information to Support the application - Response :

- The doors are not left open day and night, particularly in the Winter.
- Hayes house does not 'directly face' our business. The house faces the road. Their back door and car parking area face The Woodpecker.
- The Hayes state the on 'many occasions' the residents of West down have heard the music. I can confirm that we have never had any comments or complaints from West down Village, and we live in the village ourselves.
- Recordings, this is covered in the 'Sound' section below.
- Relationship between Mr Pearce and The Hayes are completely separate to any of the running of The Woodpecker. To say that Mr Pearce is renowned for his behaviour is misleading, hearsay and could border on defamation of character. This has also been dealt with, within the community resolution order and Mr Pearce is not awaiting any further action like they state. We are both disappointed that we allowed the constant harassment from the Hayes to accumulate in any sort of reaction from us.
- Septic tank – this was and is regularly serviced and an upgraded system was put in once we opened.
- Bins being left open, recycling problems etc are all unfounded and any issues at all were dealt with immediately – none of this is ongoing.
- We can confirm that we have certainly not had any contact from any solicitors or insurers about major ground works or a retaining stone wall.
- County Council and signs – any requests to replace signs was dealt with appropriately and reasonably – none of this is ongoing
- There have not been numerous criminal offences nor any common assault. No arrests of any kind have been made at all.
- I would also ask that careful consideration is taken into reviewing the correspondence with the police Please – RE : recent contact with PC Roger Copeland
- The Hayes also involved the police with Mr Pearce, the police decided to do a community resolution order, The Hayes were very unhappy with this, it was put back to another

sergeant who also came to same conclusion, no further action was taken, Mr Pearce removed signs etc and the community resolution order was signed by Mr Pearce and not by The Hayes.

- Tina, as mentioned earlier, recently offered further mediation with Keith, but this was refused.
- Gabion baskets were erected as a reasonable solution to stop any customer blocking the access to the Hayes property and this worked but The Hayes did not like them. Even though it solved the problem completely and the baskets were not placed upon their land. Whilst they were erected, there was not one occasion where they could not get in or out of their house. In fact The Hayes suddenly started to reverse park into their drive – to create yet another problem and make it awkward for themselves.
- We placed cones but the Hayes moved them. We placed signs, but The Hayes didn't like them either and they removed them. This led to us placing temporary gabian baskets for the busy season which worked perfectly but the Hayes did not like them either. You may see just from this how frustrating it has been to appease people who had set their minds to not being appeased regardless of the solutions that we offered.
- The gabian baskets were not removed because of communication received from 'a private solicitor to regaining full access' yet another exaggerated untruth. We removed the gabian baskets as a means of rebuilding relationships and to stop the constant harassment we were experiencing from the Hayes and the bombardment of complaints they were making to the police. Alongside police mediation we were trying act positively to reach an acceptable compromise.
- There has been no further contact from insurers or solicitors.
- To be completely clear The Woodpecker Bar and Kitchen was not opened with anything to do with the former Foxhunters Inn. We run a great business, serving fabulous food and create a fantastic atmosphere, our reviews will show this.
- Although the premises are indeed small, they work perfectly well, we find that this adds to the character of the business, and we manage it well. We have an outside covered area too, which we uncover in the summer to allow our customers to enjoy the sunshine. It is not reasonable to expect to live next to a business premises and expect it to be enclosed at all times. We do not believe that our business activities adversely affect the neighbouring community. We have not had complaints from the other 3 houses nearest to us at all.
- We have actively and positively worked with any and all authorities directly following every single complaint they have come to us with and we have acted swiftly as all will agree. You will see this clearly within the well documented authority notes. Our actions and the authorities notes prove that we DO NOT have a total disregard. What we have is patience but also the realisation that no matter what we do, the Hayes obviously want us shut down do that they can have just the thundering noise of the A361 and of course the removal of a much needed amenity that is enjoyed by so many local people.
- I find it very sad that The Hayes have gone to the lengths they have just to prove a point (any point) and to get their own way. I find it equally sad that this couple has allowed what may initially have been tiny irritations to be built into huge issues within their lives. Still and to this day, Mrs Hayes continues to try to antagonise the situation by pointedly staring and

thinking of new ways to complain or new things to complain about. The only people affecting their mental health is themselves.

Grounds for review – Response :

I do not believe The Hayes have had to 'Endure' loud music day and night. I do not believe that I have acted in an unreasonable manner or been aggressive nor intimidating. I find the actions of Mrs Hayes towards me to be unreasonable and intimidating, she actually stamps her feet every time things do not go her way. The public should not be allowed to act this way and waste the authorities time due to a personal vendetta. This has gone far enough.

The prevention of public nuisance

I believe their reasons and recordings are severely over exaggerated.

Whilst on a few occasions we have created such a fabulous atmosphere that my customers have enjoyed themselves too much on a summer afternoon / evening, I do not believe that this is continuous and ongoing.

As explained below I have engaged a professional sound recording company to ensure that our ongoing actions are within a reasonable manner , although I fear The Hayes will just continue to waste all of our time.

Prevention of Crime and disorder

I have not reported or experienced any crime or disorder at all since running The Woodpecker.

The Woodpecker is a licensed bar and Kitchen and we certainly did not intend to replace The Foxhunters pub.. We serve food from 9am – 8pm every day.

We have built up an outstanding reputation for food, particularly for our 'Best Breakfast around' ! We have also recently started to do Bistro Nights focused around local produce whilst also supplying local wines to accompany.

We are loved by our customers and we would appreciate it if you could visit our google reviews and our facebook page 'The Woodpecker Bar & Kitchen' (please ensure you use the '&' not the word as someone has set a rogue page up) for all the wonderful things everyone says about us.

Sound – please refer to sound section below.

I would also ask that careful consideration is taken into reviewing the correspondence with Environmental / Health protection please, the team were bombarded with complaints, everything from: from: Tractor noise , recycling noise – , recycling cleaning, rats, septic tanks problems, signs, parking, chicken noise etc. I can confirm we acted reasonably throughout each situation and no problems were found by any of the involved teams.

The Hayes state that we were still awaiting legal action, in fact during a meeting with Andy Cole the manager of Environmental health and Noel Bourke Licensing officer it was decided that the case had not been dealt with properly by Mr Ronan Flynn (the previous EHO) and a line would be drawn and we would move on. We are certainly not awaiting and do not expect any further action.

Drive way and parking – The Hayes a have a right of way across the car park to their property. Whilst The Hayes say the access is hindered by customers and Mr Pearce, we have taken many actions to resolve this.

Customers have only hindered this access literally a handful of times, my staff are trained to look out for any near parking and act immediately.

I can also confirm that The Hayes do in fact call, text or approach The Woodpecker any time they are not able to get in or out. To say that are fearful is a nonsense and an exaggerated untruth.

We have tried and tried to remedy the situation. We have offered to provide yellow cross hatched lines at our cost, but this has been declined. We placed cones, They Hayes moved them. We placed signs, They Hayes didn't like the signs, so they removed them. We erected a temporary gabian basket structure which worked perfectly. I can confirm that not once were The Hayes unable to get in or out of their property because of the baskets. So to create another problem, The Hayes suddenly started to reverse park into the drive which indeed made it awkward for them., and insisted the gabian baskets were moved.

We recently purchased a new sign for The Hayes to place on to their gate to bring attention to the fact that the gateway must not be blocked, but the Hayes have not erected this sign.

For the record Mr and Mrs Hayes have not done anything at all to help themselves with the parking / access situation and everything we do they complain about. They do not own the access across the carpark but are allowed to do so only because of a covenant within the deeds that allows them access but that also has restrictions that the Hayes must adhere to.

As I understand the Hayes have written to Mr Milton the owner of the car park about this, along with a legal representative. This has gone no further. This may still become an issue if they are found to be obstructing the development of the land and business as is stated in the covenant within their title deeds.

Sound

We note that The Hayes have provided 121 sound recordings. I would ask you to investigate where these recordings were taken from please.

Hills View does not directly face The Woodpecker, The house faces out on to the road.

The road is the busy A361, the main throughfare to Mullacott industrial estate and Ilfracombe with constant noise day and night.

The living area and garden living – tables chairs, BBQ are all at the other end of the house. There is no room for them at the side of the house nearest to the carpark.

When I had the opportunity to listen to initial sound recording I can confirm that these recordings were all taken from either the carpark , the gates to the property or within their parking area up to the fence. No sound recordings were taken from inside the house or from the other side of the garden – where they actually live, because they can not hear or record the sound from where they are living and carrying out their day to day duties apart from the noise from the busy A361.

For instance : One Thursday evening during the summer of 2022 , we have a live acoustic guitar duo, The Bodstone Boys , they were under cover, but still outside, we had children with instruments and it was a great atmosphere, they begin at 6 and finish at 8.30 it was raining pretty hard.

The Hayes decided to record this sound from the car park, with coats and umbrellas in the pouring down rain. I guess only to add to their sound recording library?

Please also note The Hayes on many occasions have text Mrs Pearce. RE: rubbish in their garden, chicken in their garden, parking, signs etc etc. but never once have they text about the sound at the time it is occurring. They would rather record it – to add to their library.

We have occasional live Dj's and local bands , providing a place for upcoming local artists. We limit this to once a month and always end by 10pm. This is always well advertised, which no doubt helps the Hayes prepare their sound recording equipment accordingly.

We believe that providing this entertainment on occasions for locals and visitors is reasonable.

We have a sound system inside, which has in the past caused some problems as it could be moved. It is now secured and a maximum volume has been set. This has made a difference to any noise travelling outside of the Woodpecker. I have also had an afternoon of staff training on the importance of reasonable behaviour and will refresh this again before the summer season begins.

We have also been working with Jeremy Butt a qualified acoustician, CEng, MPhil MIOA. Working for Hoard Lea .Please see his reports and recommendations in Appendix A attached , which we have found this very useful and have made considerable changes.

We see this as a way to cooperate with the authorities and we will continue to monitor this.

I note that The Hayes recognise the changes, but only refer to them as the lowering in the sound because it is winter.

Summary

The Woodpecker Bar & Kitchen is a hub for local communities such as Ilfracombe, West Down and Braunton , and we welcome tourists that visit. We believe it is run in a reasonable and well managed way. We are providing up to 15 jobs at any one time , whilst also supporting local suppliers in the area. We are also very happy to be able to host charitable organisations and to raise funds for several charities.

Going forward we fully intend to continue to monitor all aspects of the business, taking particular care with parking and noise control. We will do this by working with authorities such as licensing, environmental health, and Jeremy Butt from Hoare Lea as well as providing further regular staff training.

We hope to be able to continue to provide food, drink and background music in order to create a relaxed and fun environment. We hope to be able to still have occasional live music from local bands and or Dj's , and we think it is reasonable to limit this entertainment to a 10pm finish.

In return, we wish for the harassment from the Hayes to stop and to be able to continue to provide our many customers with the great amenity that we have built.

We would also like to urge The Hayes to remind themselves that they purchased a property next to two businesses and a main road, and to expect complete quiet is too high of an expectation. No doubt the purchase price of their property reflected this.

Music Noise Assessment. Woodpecker Inn, West Down.

Introduction.

Hoare Lea has been appointed to undertake an assessment of music noise associated with the Woodpecker Inn, West Down.

An initial visit was carried out 27th October 2022, this visit included assessing the speaker outside the public house. The results of this assessment are shown. A further visit was undertaken following some changes implemented to the music operation on 17th March 2023.

Recommendations have been made for future operations.

Visit on 27th October.

The following summarises the results of the initial visit.

Background noise level.

The typical evening background noise level is around 40 dB L_{A90} in the absence of operational noise from the bar.

Operational noise level.

The predicted noise level at the neighbouring property with the music being played at the preset volume is typically 48 dB L_{Aeq} (5 minutes).

Discussion.

Ideally music noise should be lower than background noise, there is limited guidance on this topic. During daytime hours (prior to 11pm, noting that music is not played after 10pm) has less guidance. For night-time entertainment noise (11pm-7am) the Noise Act is invoked the parameters are as below:

34 dBA (decibels adjusted) if the underlying level of noise is no more than 24 dB(A)

10 dBA above the underlying level of noise if this is more than 24 dB(A)

If we assume 10 dB reduction for an open window, an estimate of the underlying noise level in the adjacent dwelling could be 30 dB(A) at the quietest times. This would imply a limit of 40 dB(A) internally or 50 dB(A) externally.

The Noise Act level is generally derived from the following extract from DEFRA NANR 163, Noise from Pubs and Clubs (Phase II) May 2006. There are lower values with semantic acceptability descriptors.

Semantic descriptor	Score	Absolute $L_{Aeq,5 \text{ minutes}}$
Clearly acceptable	1	17.0
	2	20.4
	3	23.8
	4	27.2
Just acceptable	5	30.6
Just unacceptable	6	34.0
	7	37.4
	8	40.8
	9	44.2
Clearly unacceptable	10	47.5

Table 5: Semantic descriptor and associated value of acceptability (DEFRA Pubs and Clubs Table 4).

As above, the music does not persist at night so the guidance is not strictly applicable, It could be used to gauge acceptability.

The estimated noise level due to music inside the adjacent property is around 38 dB(A) based on the measurement survey, this is marginally less than the 40 dB(A) that may applicable if the Noise Act is invoked.

In practice, the music noise levels during the operation as at the time of the measurements would be clearly audible in the property with windows open, therefore complaints have arisen. From the Table above, ideally a 10 dB reduction would tend towards acceptability. A 10 dB reduction is subjectively a halving of noise level.

It is recommended to have a speaker system within the bar or operate at a lower volume setting.

Visit on 17th March 2023.

Following the visit to the Woodpecker Inn on Friday 17th March the following was observed:

The speaker is now located within the bar and is secured, such that it cannot be moved outside of the premises as the earlier recommendation.

Further measurements were taken by the gateway to the adjacent dwelling, music was played at volume setting 14. The music was audible at a low level at the measurement location. The level measured with music on was around 45 dB(A), similar levels were measured with music off. The weather was reasonable during the survey with dry roads and light to moderate breezes. The noise measurements and observations were made in the absence of road traffic and lulls in construction noise.

It is worthy of note that the approximate noise reduction to the property from the measurement location is around 5 dB. This would likely result in levels of equal to or below background noise in the evening at the property itself.

Additional measurements were taken at volume setting 9, this became almost inaudible at around 10 metres from the Woodpecker Inn. Music noise could not be heard against the prevailing background noise, this was during the absence of traffic and construction noise at the measurement location next to the neighbouring properties entrance. Whilst the background noise level in the evening could be slightly lower, as measured in October 2022 at around 40 dB(A), the additional loss for distance should reduce the music noise level further still. It is unlikely this would be audible in the evening when played at this level.

Discussion.

It is advised that it would be beneficial if a more distributed speaker system were installed, such that music could be played at a lower overall level whilst still achieving a good spread of sound. The volume control should be behind the bar, possible locked to avoid tampering.

In conclusion, the level measured with the speaker as located currently is predicted to be at least 10 dB less than the original measurements and represents a considerable improvement. In line with the discission on the October survey, the 10 dB reduction should tend towards acceptability.

A final assessment could be carried out to set the system volume to an agreed level at the boundary with an allowance for distance attenuation to the neighbouring property. It is not suggested that inaudibility would be a suitable criterion, however, the latest survey indicates that suitable music noise levels can be achieved.