

**Review of a premises Licence  
Woodpecker Bar and Kitchen Representation**

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My wife Helen and I bought the Foxhunters Inn, carpark and drinks and entertainments' licensed cafe in 2013. We arranged the reintroduction of the Licence following the administration of the previous owners and continued to fund the alcohol and entertainment licence for some years pending developments over the Site overall. New neighbours, Mr and Mrs Hayes bought the house at the far end of the carpark in 2014 when their solicitor would have made it clear to them that there was a covenant within their title deeds. The covenant states that the owner of the licenced café and carpark would allow them access to their property via the carpark but on the understanding that they must not impede nor restrict in any way the development of the café and carpark. Sadly ever since we have been exercising our rights to development, incessantly the Hayes have been causing as much interruption and hassle as possible both to our overall development plans but latterly the exercise of my tenants' rights in regard to their legitimate activities to such an extent that we have been obliged to threaten them with a 'cease and desist' order as well as a warning they are jeopardising their right of access to their own property. We can provide all the evidence but the Hayes have helpfully listed the results of their intrusions on this legitimate Business' activities and indeed those of our Property.

In 2021, the Pearces agreed a formal legal licence with me for the café and informal use of the carpark. I made it clear to them that they could indeed use the carpark for their customers but they had to allow the neighbours at the far end of the carpark access to their property via the carpark. This has been the case bar from limited occasions when visiting guests unthoughtfully obstructed access but as soon as an obstruction was noted to the Pearces, the offending customer vehicles were moved immediately.

It is evident that as the Covid restrictions were relaxed and visitors were allowed to return, they did so in vast numbers. The Pearces opened their temporary camping facilities, Buttercombe Meadow and it proved to be very popular. Buttercombe Meadow is accessed via a pathway, owned by the Pearce's that runs along the back of the property owned by the Hayes and is also accessed through our carpark by informal right. So suddenly, from being in lockdown with no visitors to the area, we, in this part of Devon experienced a deluge of very welcome visitors and that included Buttercombe Meadow as a temporary camp site.

Campers, locals and passers-by made the most of the great food and entertaining atmosphere offered by the Woodpecker but sadly the Hayes were not and did not miss any opportunity to complain about a plethora of minute matters at any given opportunity. Anyone would have been pushed to the absolute limit of their patience by the constant complaints, some legitimate (which were dealt with promptly) but a great many more unsubstantiated and time-wasting interruptions equalling harassment both of our tenants exercising their legitimate rights but also of me as their landlord.

In these times, it is sadly extraordinary to hear of a new business and more so, one in the licensed trade doing so well because of the patrons' hard work, significant investment and endeavours. We are more likely to hear of businesses struggling to survive or having to close, especially of pubs and eateries and the further removal of facilities for locals and visitors alike, invaluable facilities which

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North Devon needs so much. The Pearces are to be congratulated and given all due credit for their hard work in building something that has proven to be so successful. How disappointing it is that they find their business now under threat because of one single neighbour demanding a review of their licence, a licence that was granted and renewed by the Council many times in the past for the same property and then to be granted to Mrs Pearce just two years ago after a totally renewed application.

It is disappointing indeed to note the defamatory comments by the complainants maligning myself and indeed my tenants and their businesses. I have indeed been contacted by the Hayes in a complaining manner but when I discussed these raised complaints with the Pearces, I could find no reason to agree with the Hayes with the vast majority. The Woodpecker is a legally licenced premises and the covenant states that the Hayes can gain access to their property which they do but must not deter the development of the previously and currently legitimately licenced café and car park.

The Hayes complain of the noise from music when in their garden and yet they use the opposite side of their house garden to sit in which is much closer to the thundering lorries that frequent the A361 just a few yards away. The same traffic noise is emanated throughout the night, including the early hours of the morning as the trucks, including the Royal Mail and the nearby frozen food suppliers go about their business. Their house faces the A361 and not the carpark. There will be customers who sit outside Woodpeckers as of course the smoking laws prevent them from doing so inside. However, customers of this licensed premises have used this area as part of Foxhunters for centuries and not just the last few years and for all forms of hospitality-related activities including many which are now considered 'licensed'. However, it should be added that the Hayes have also complained vigorously about the Pearces' camping activities which are nothing whatsoever to do with us and our Property.

We must not forget too that the Hayes took it upon themselves to destroy the very thick hedge which enclosed their Property. This was a thick, fir hedge and not only did it provide privacy but it gave sound proportion to the road and any activities in the adjoining Property if that was required. Instead, they destroyed that and replaced it with a flimsy and thin fence. At the time I thought they were being foolish for myriad reasons but I assume they wanted to enjoy more light and openness for their Property but that is not the 'blame' for the consequences on ourselves or our tenants or the A361.

The Hayes complain of unreasonable behaviour by the Pearces. Is it not possible that a small irritation grew into a large irritation when the Hayes may not have achieved exactly what the Hayes wanted when matters were attended to reasonably?

To complain of music being played for hours on end and that a speaker was placed in the doorway is somewhat of an exaggeration. Any and most shops play music throughout their opening hours and surely no customers could enter or leave if the door was blocked by a speaker. There have been no other complaints to our knowledge and instead there has been considerable support for the great facilities and entertainment initiatives the Pearces have been providing.

No action has been taken at all by Environmental Health in regard to the legitimate, licensed music being played and this statement will be corroborated by the Council.

I am at a loss to understand why the Hayes would want to attend the Woodpecker if it is all as terrible as they say and find this an odd statement for them to make as part of their representation.

Yes indeed, I am informed that the Hayes have enlisted most of the Council departments and the Police and any other possible agencies at considerable cost to these public departments in both time

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and resources and yet no actions have been taken. They have also engaged expensive lawyers to try to create trouble and cost upon us in relation to their legitimate rights of way – and to dismiss any breaches of the covenants regarding that right. Indeed, if they were so miserable in their Property, we even offered to consider to buy their home from them but they declined that opportunity which has now passed.

### The prevention of crime and disorder.

The Hayes (and we are led to believe that Mrs Hayes is retired from the Metropolitan Police so whether there is an endeavour to intimidate here I do not know) are asking for a review of the licence to prevent crime and disorder. In what way have the Pearces or their customers been responsible for crime and disorder? I am indeed aware that the police have visited the Woodpecker but no arrests have been made and the police were in fact sympathetic when hearing the 'other side to the story' from the Pearces. This is not the first time and nor will it be the last that someone has been driven to losing their temper following months of one complaint after another and having taken remedial action throughout. I am not aware that any of the customers of the Woodpecker have been poorly behaved or committed any crimes on the property. It is possible of course that some may have been in high spirits after enjoying an evening at the Woodpecker but their designated driver would have soon corralled them off the premises and homeward bound. If the Foxhunters Inn was to reopen, with its three bars and a family restaurant, open legitimately for 365 days of the year and using the carpark 'for 89 cars and coaches' as per the sales' particulars and café then there would certainly be considerably more cars and passengers using the carpark throughout the day and evening. Annoyance with the bins and glass recycling once noted to the Pearces have been eradicated. To the best of my knowledge, there have been no crimes committed nor have any points of disorder that the Hayes felt had occurred were justified.

### Prevention of Public Nuisance

Again, I note that glass recycling is monitored to be undertaken at reasonable times. Of course noise will emanate from a business that welcomes customers to enjoy good food and drinks. The Council has seen fit to dispense liquor licences for many years to those operating the business premises as it has done again now and yet one household alone, people who bought their 'quiet' house when the hostelry next door and opposite were closed but knowing that there was a licenced premises next door and in fact a much larger licenced premises opposite can jeopardise what is proving to be a valuable community asset. Of course there will be noise from a place of social gathering whilst it is being operated and also noise from people enjoying themselves. Whilst the law states that home dwellers are entitled to quiet enjoyment of their home, a business has to be entitled to enjoy and build the business that it is there to provide and there are financial ramifications from any irritant which continues to cause business and rental distress to those enjoying their quiet and legitimate use of their premises.

The business environment has been hard enough as it is these last few years. ITR was already difficult pre-Covid and the Pearces are to be commended for bringing an invaluable facility to the area in rekindling a previous licensed premises, investing significantly in it and dedicating all hours under the sun to make it a success as others around the whole area have been closing for good. Indeed, Woodpeckers is now the only reliable facility in the whole of the West Down Parish now that the Crown Inn in the Village is mainly/permanently closed and Trimstone Manor's evening offering has had to be closed too.

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For the Hayes to then draw us into their disagreements and to use such defamatory comments because politely we did not agree with their ill treatment of our legitimate tenants and do exactly what they wanted me to do is despicable. The point is then made and obvious that they have become completely obsessed with small issues that they have grown to become points scoring exercises. They simply cannot expect to live a quiet country life when they have chosen to buy a property that sits feet away from the A361 and a previously licensed premises that has always had the potential to become the great success that it is today. They will now have to declare the unrest and neighbour dispute if they sell their home and also are at risk of breaching the covenant to give any access at all to their Property.

The fact remains that there is little in the way of entertainment available to local people in the area and the hard work of the Pearces has proved that they have created a business that is well supported by locals and visitors alike. It is a business that is needed and for the Council to even consider closing it down, which effectively it will be doing if it removed their licence, flies in the face of what local people want and deserve to have. One obsessed couple who bought the wrongly located property when the licensed premises next door was shut temporarily cannot be instrumental in the closure of such a welcomed amenity that so many others enjoy and deserve.

It is hoped that good sense will prevail and that the Pearces can continue to provide such a much needed source of entertainment for local people and visitors lucky enough to stumble across The Woodpecker Pub and Kitchen. Maybe it would be in Hayes best interest to investigate the neighbourhood of their next home more thoroughly to ensure that there is not a licenced property nearby and that they have no need to abide by any covenant within the deeds'.

For these reasons, we, Philip and Helen Milton, write in support of Tina and Jamie Pearce retaining their licence.

Philip J Milton and Helen L Milton