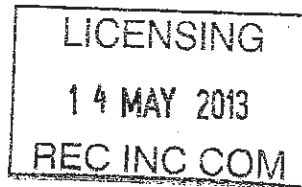


Appendix 4



Kevin and Caroline Wood
30c Hart Street
Henley-on-Thames
Oxon RG9 2AU
Tel 01491 577187

13th May 2013

Re: Extension of the opening hours of Magoos and other variations to Magoos License, 22 Hart Street, Henley, Oxon, Premises license number 4027, License reference 241

Dear Mr Nakum,

We are residents at number 30c Hart Street and our property is on the first floor overlooking the garden and the rear of the Magoos bar, 22 Hart Street. We have suffered nuisance noise from Magoos for the last **eight years**. Therefore we are strongly opposed to any extension of its opening hours and other changes, as it will increase this nuisance.

Our objection falls under the **Prevention of Public Nuisance Licensing Objective**.

As will be seen from talking to the SODC Environmental Service Department (Trevor Dean and before him Ben Coleman, Simon Hill and Craig Miller) the current owner has had several Noise Abatement Notices served on him and many letters of warning from the Council.

The owner of Magoos is still regularly breaching the conditions stating that “**noise emanating from the premises as a result of regulated entertainment shall not be clearly audible at the boundary of any adjacent residential property**”.

My wife is so upset by the continuing noise from Magoos that from Thursday to Sunday night she cannot sleep in our bedroom and prefers instead to sleep on the floor of one of our daughter's bedrooms since it is on the side of our home away from Magoos and more likely to give her the opportunity of uninterrupted sleep. I myself use ear plugs so as to reduce the chance of being woken up. SODC officers have a long case file regarding our complaints about Magoos. Where we are at the moment is that the officers agree that Magoos activities are audible but SODC consider that they are not at a level with which they are prepared to call it a Statutory Nuisance. That leaves us with the matter unresolved.

We feel very strongly about this case. Therefore we are willing to appear before any council committee or panel in regard to Magoos and would like to be kept informed of any decision on the same matter. With this application for a 2am (effectively 2.30am with drinking up time) license Magoos is clearly trying to become an after normal hours drinking venue destination for late night drinkers.

With the application to have dancing on every day of the year (which was previously one of Magoos Licensable Activities for 12 nights per year) and the longer opening hours Magoos will at night in effect become a nightclub. This is beyond the scope of their original License Conditions.

This is clearly going to lead to increased nuisance noise for the neighbours. Hart Street is after all one of the most densely populated residential areas in Henley. In fact there are six new residential units being renovated at number 20 Hart Street (formerly The White Lotus) which will be even closer to Magoos than we are and will presumably be more directly affected upon completion.

Magoos have a track record of not keeping to their previous or existing agreements on their premises license.

In particular we would like to draw your attention to the Licensing Panel Hearing of 23rd June 2011 where Magoos applied for and were **refused** similar extensions to the opening hours and other conditions we would like to make the following points.

Hearing Decision Notice, Page 3 Point 2. "The design of the extension sought to alleviate noise problems through soundproofing". This has not been achieved by the extension which had been described to us as a "room within a room" concept that would stop the break out of nuisance noise. This has been witnessed by SODC. Some rudimentary tests were done with SODC officers and a single drum played within Magoos was clearly audible within our bedroom.

Page 5, Point 2. "A sound limiting device shall be fitted to the amplification system and shall be located in a separate lockable cabinet which is remote from the volume control, set at a level to be agreed with the local authority. The operation panel of the noise limiter shall then be secured to the satisfaction of the council. No alteration or modification to any existing sound system should be effected without the prior agreement of the council."

Approximately one whole year was spent with the Magoos provided sound limiter set to the wrong level and still able to play recorded and live music to levels clearly audible in our bedroom. Live music is currently still audible and sometimes recorded music also.

According to Trevor Dean of SODC, the type of sound limiter that Magoos utilise is one which requires a continuous high volume to trigger a cut-off on the PA system. However the beat from a drum kit (which is a series of peaks and troughs) is not continuous and therefore will not trigger the cut-off of the signal to the amplifiers of the PA system.

Page 5, Point 3. "No additional sound generating equipment shall be used on the premises without being routed through the sound limiting device". The musicians who play live in Magoos on Thursdays and Sundays use their own amplifiers which are not routed through the PA system.

In the application Magoos are asking permission to hold Live Music between 21.00 and 00.00 every night of the year, even though they have entered into an agreement with SODC officers to cease Live Music by 23.00. Given that Magoos know this is one of the sensitive areas of their license it seems amazing to us that it should be put on the agenda again after causing so much trouble in the past. As the agreement with SODC Environmental Protection Department stands Magoos should finish at 23.00 latest. We know for a fact that they frequently over run this cut-off time by as much as half an hour.

We look forward hearing from you.

Yours sincerely

Kevin and Caroline Wood

HENLEY MUNICIPAL CHARITIES

Chairman: Mr M N Forsdike
Clerk: Mrs J E Pickett

Rear 24 Hart Street,
Henley-on-Thames,
Oxon,
RG9 2AU

Treasurer: Mr A Bunce

Tel/Fax 01491 – 412360
e-mail address
henleymcharities@aol.com

15 May 2013

Legal & Democratic Services,
Vale of White Horse District Council,
Abbey House,
Abbey Close,
ABINGDON,
Oxon,
OX14 3JE

For the attention of Licensing (Case) Officer – Bhavdip Nakum

Dear Sirs,

Re: Licence 4027 – Magoos, 22 Hart Street, Henley on Thames RG9 2AU

The Trustees for the Henley Municipal Charities understand that an application has been made to vary the above licence to extend the opening hours and the use. The Charities' own the adjacent property ie 24 Hart Street and wish to make particular reference to the residential flat at these premises where the current tenant, Ms C Boughen, and her two young sons are suffering from the extremely high sound levels emanating from Magoos – inability to sleep and even converse; pounding of high volumes of music causing furniture/pictures to shake.

Cont.....

Reference is made to the last request for a variation to the above licence placed before the licensing panel for the South Oxfordshire District Council's Licensing Panel on 23 June 2011 and comment on /query the hearing decision notice issued thereafter as follows:-

- Condition 1 was an acoustic survey carried out if so what was the resulting requirement to ensure that sound levels in a new building were contained from residential neighbours? The sound levels remain high
- Condition 2 is the sound limiting device in situ and is it checked during the busiest times of the facility ie Fridays/ Saturdays/Sundays? The new premises opened to the public this year how often has a Licensing or Environmental Health Officer checked that sound levels are contained?
- Condition 3 visiting groups bring their own amplifiers to the venue but the resulting high volume of music is not "sound limited"
- Condition 4 the clientele of the premises who wish to smoke after the hour of 2300 walk through the bar area and out of the front of the premises to smoke/ talk/use mobile telephones with no staff member appointed to ensure minimum disturbance to local residents
- Condition 5 were these checks carried out if so what are the dates and times together with the results of checking external noise levels for the requested 3 times?
- Condition 32 "noise emanating from the premises as a result of regulated entertainment shall not be clearly audible at the boundary of any adjacent residential property"
- this condition is very clearly not being met – sound levels in 24A Hart Street are unacceptable, indeed sitting in a vehicle in Hart Street opposite Magoos the music can be heard

Cont.....

The Trustees' objection falls within the "Prevention of public nuisance licensing objective" ie as stated in Condition 32 – "noise emanating from the premises as a result of regulated entertainment shall not be clearly audible at the boundary of any adjacent residential property" which is supported by the definition of a statutory nuisance ie "a matter which is unreasonable and causes substantial interference in the use and enjoyment of a person's property". It is inconceivable that the high sound levels emanating from Magoos do not break both of the aforementioned definitions and as such warrant an in depth investigation by the South Oxfordshire District Council in order to prevent continued breaches of the licence which are being carried out with impunity – such checks to be made on an ad hoc basis and recorded for reference purposes and to include levels of sound taken from nearby residential premises.

The promises made to achieve permission for the building of a new extension at Magoos have not been met – the sound system installed to reduce sound pressure is inadequate and should be the subject of expert investigation.

Mr L Wilson, the proprietor of Magoos Limited, is a tenant of the property at 22 Hart Street the freehold of which is owned by a Mr D Wells – is the licence personal to Mr Wilson and not the premises does the freeholder have to abide by all the licensing conditions implemented on the use of his property? In any case Mr Wilson should be asked to ensure that the conditions of the licence are being met failing which corrective measures should be implemented.

The Trustees cannot endorse any variation to the above Licence – the sound levels from Magoos are unacceptable to residents of the flat at 24 Hart Street which in turn makes it extremely difficult to find tenants. Residents in the area continue to have their lives blighted by the inconsiderate use of the premises at 22 Hart Street which also makes for great difficulties in the area for obtaining/retaining tenants in residential properties/finding purchasers for residential properties thereby denying businesses the opportunity to thrive.

Residential premises have long existed in Hart Street and were well established prior to the introduction of Magoos Limited which has proved to be a detrimental neighbour and unfortunately an increasing regular blight on residents and their **right to enjoy their homes unaffected by outside interference.**

Yours sincerely,

Mrs J E Pickett
Clerk to the Trustees of the Henley Municipal Charities

Appendix 4 Agenda Item 1

Licensing South - Licence Application - Magoos, Hart Street, Henley

From:
To: <licensing@southoxon.gov.uk>
Date: 15/05/2013 22:54
Subject: Licence Application - Magoos, Hart Street, Henley

Dear Sir,

We are writing to object to this application for extension of and/or additional licensing hours at the above premises, on the grounds that such extensions etc are neither necessary nor appropriate, and indeed will become a cause of nuisance and disturbance to the residents of the immediate vicinity.

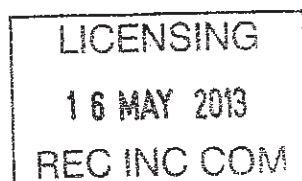
We live at Forge Cottage, 33 Hart Street which is situated on the other side of the street from and approximately opposite the subject premises. We have had experience before of premises in Hart Street operating under licences which allow the sale of alcohol into the early hours of the morning, and in particular of the noise, rowdyism, vandalism and sometimes even violence which goes along with activities operating under such licences.

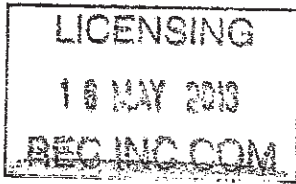
We have no doubt that these current applicants will offer assurances that their operations will be better conducted than those of the past. However, the plain truth of the matter is that while they *may* have better control within their premises, they *cannot* control what goes on in the street outside, either in terms of the amount of traffic and congestion which their activities will generate, nor, and more particularly, in terms of the behaviour of their patrons, or would-be patrons who may have been turned away or ejected.

At present, the cultural and social life "after dark" of Henley's town centre co-exists reasonably comfortably alongside those who live in that central area. Proposals to develop the sort of "nightlife" extending into the small hours of the morning, such as one might expect to find in larger towns such as Oxford, Reading or High Wycombe, are not desirable, and we object strongly to them.

Yours sincerely,

Frank and Cleone Augur





Longlands House,
39,Hart street,
Henley-on-Thames,
Oxfordshire
RG92AR
01491576242

Reference to the application for extended houses for "Magoos" Bar

For the attention of the licensing officer SODC

Dear Sirs,

As neighbours living in the same street a few yards away I strongly object to the application for extending the license hours for "Magoos" bar.

The main reason for my objection is clients come out of the premises in an inebriated state already and if we as a private resident would like the hours restricted not extended.

The inebriated clients are extremely noisy , drunk and create havoc in Hart street already by extending the hours all you would be doing is increasing alcohol content and consequent mayhem.

Finally in the summer months its even worse

Please kindly acknowledge

Yours sincerely

Clive Hemsley

15/5/2013

Bhavdip Nakum - Magoos

From: MikeShem.
To: <Bhavdip.Nakum@southandvale.gov.uk>
Date: 14/05/2013 22:59
Subject: Magoos

Dear Mr Nakum,

We live at The Old Foundry, 47, Friday Street, Henley-on-Thames, RG9 1AN. Our garden extends almost up to the back of the La Bodega restaurant & is very close to the garden of Magoos.

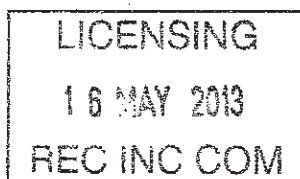
We wish to register a strong objection to any extension of the licensing hours of Magoos in Hart Street Henley. Their garden is used by their customers, particularly during the summer months & already they permit customers to stay beyond the agreed times & we suffer from the loud noises they make. The rear of Magoos & its garden is surrounded by residential properties & their gardens & any further extension of the use of their property into the early morning hours would be intolerable because of the noise factor.

The noise problem from commercial concerns with gardens behind Hart street has been recognised & acknowledged by the Planning Authorities in their treatment of the La Bodega restaurant whose frequent applications to use their garden have been rejected. We entreat you, the Licensing Authorities, to take a similar stance & reject the Application by Magoos for an extension to their licensing hours.

Yours sincerely
Michael & Ann Shemilt

Appendix 4 Agenda Item 1

Charlotte Boughen
24a Hart Street
Henley-on-Thames
Oxon RG9 2AU
T: 01491 571262
M: 07846712086



13 May 2013

To whom it may concern,

Re: Magoos, 22 Hart Street, Application for Extension of Opening Hours

I, along with my two sons, reside at 24a Hart Street which lies next to Magoos on the first floor above Jonkers (the book shop). We have lived here for 18 months and have experienced throughout this period nuisance noise from Magoos. I therefore write to oppose the application for extension of opening hours and would in fact like to suggest that opening hours be reduced.

Prior to and post the recent refurbishment and extension of the premises we have endured unacceptable levels of noise from recorded music, live music and people both inside and outside of the premises as well as disturbances to our property. I will address each issue individually below.

Our living room and my son's bedroom is directly next to Magoos. On a Friday and Saturday night we regularly hear very loud music which comes through the PA system – I believe there are two speakers on the wall which is shared with my living room/my son's bedroom. I can confirm that not only is there a very clear bass line that resonates through our property but we can clearly hear the words of each song. As the volume of people in Magoos increases (11.00pm onwards) so too does the volume of the music along with customers' voices. Whilst sitting on our sofa we can clearly hear conversations that people are having in the front bar.

We have given up watching movies on TV at the weekends as quite frankly it's so hard to concentrate unless the volume is turned up very high and it is impossible for us to sit as a family and relax quietly or read. We either have to have our own music playing or the TV on to drown out the noise from Magoos.

My eldest son wears earplugs to bed and from time to time has slept in the study as the music has been too loud for him to get to sleep. He is currently studying for his final GCSEs and as of this week has taken the first of many exams. I am considering moving him down to sleep in the study short term so he can get uninterrupted sleep in preparation for an exam.

Although on Thursdays and Sundays the band play live music at the back of the premises this is sometimes played through the PA system thus resulting in loud noise levels throughout the whole premises. I am slightly dubious as to whether the premises have been properly soundproofed as one can clearly hear the band when stood in our back yard. Both of my sons find Sunday nights particularly frustrating as they struggle to get to sleep due to noise levels inside Magoos and outside directly below their bedroom windows.

Since the completion of the extension resulting in the premises holding a larger number of people and the fact that people are not allowed out the back of Magoos after 11.00pm, the noise levels outside on the street and directly below our living room and my sons' bedrooms has increased dramatically. We endure every single Friday and Saturday night 20+ people standing outside smoking, shouting, swearing and sometimes fighting. The smoke permeates through the window seals and actually smells like someone is smoking in the house. We are unable to keep our windows open during the evening at the weekends.

Magoos customers regularly use our porchway as a place to urinate, vomit and smoke. It is clearly audible when someone enters the porchway as they need to open an iron gate which makes a loud noise. My bedroom lies directly above the porchway and this disturbs me in the night and makes me nervous.

We also experience Magoos customers loitering outside long after closing time and are quite often kept awake by drunken noise and behaviour. These customers are clearly not being encouraged to move on or respect local residents. I have noticed that the Henley Brew House is only permitted to stay open to 12.00 on the weekend and 11.00pm on weekdays due to the fact that there are flats above the premises. There are signs erected inside and out to encourage their customers to leave quietly and respect local residents. Magoos' management and customers have no respect for the fact that this is a residential area.

We have already experienced extended opening hours at Magoos as they have been granted a number of one-off licences to host private functions and can confirm that on every occasion I have had to go downstairs and ask them to turn the music down and keep the customers outside smoking quiet as we have not been able to sleep.

I would like to point out that I have in the past been asked to complete diary sheets, I have contacted the Out of Hours Officers and I have on numerous occasions tried to reason with the owner. The diary sheets are a pointless task and the Out of Hours Officer is not available when the noise levels are at their worst. The owner is very good at appeasing and promising to consider the fact that there is family living above but sadly I have come to realise that he really doesn't care.

Living in a town centre location I appreciate that there will be some level of noise but I never imagined that it would be to this extent. I am a very reasonable person and have been extremely patient and tolerant but feel the time has come to speak up for both my family and other local residents. I truly ask you to consider all that I have put forward and trust that you will take this into account when making your decision. This street is a beautiful residential area housing a number of families which is being blighted by Magoos which has somehow managed to transform from a small tea shop into a late night drinking den/club.

Yours faithfully,

Charlotte Boughen

27 Hart Street
Henley on Thames
RG9 2AR

14 May 2013

Mr B Nakum
South Oxfordshire District Council

**Magoos 22 Hart Street Henlèy on Thames.
Application to vary licence 4027**

Dear Mr Nakum,

I understand that you are the Case Officer in respect of this application. Please therefore place my objection before the Licensing Committee.

Unlike many local towns, the centre of Henley is residential. Even where ground floor premises are commercial, upper stories of buildings are flats, and significant infill building further increases the density of population.

Hart Street is an example of this situation. The electoral roll shows almost fifty residential properties. In the past year, houses have been built behind Barclays Bank, and current developments will see two further houses behind Café Rouge and the conversion of the failed White Lotus nightclub converted to several residential sites. The street also houses two upmarket hotels, whose residents pay dearly for the right to sleep in peace. All of this in a street which is no more than 200 metres in length – giving a population density far higher than the rest of the town.

The application by Magoos, if approved, will turn the premises into a night club. The history of attempted nightclubs in Hart Street is dismal. All of them closed because of numerous infringements of drinking laws, noise and drug abuse. I have sat through the initial licence applications of all of them. They were all promised to become respectable establishments where respectable citizens could relax in the late evening. Gradually they slipped into later and later hours, noisier and noisier music, higher and higher cocaine intake. (This is all evidenced in the various police reports from Thames Valley Police in applications to withdraw licences). You may recall the case of an ear bitten off outside the White Lotus.

An extension of hours will exacerbate a problem of 'booze cruising'. Drinkers fill up in less expensive establishments, then stagger into more expensive bars elsewhere in town to finish off their night – a very noisy process.

The simple fact is that Hart Street Henley is not a suitable location for a nightclub, and the residents are weary of trying to get that message to the appropriate authorities.

My property is immediately opposite Magoos, on the north side of Hart Street. After many years of suffering from excessive music noise, I was pleased that the owner moved his musical activities to the rear of his premises. The sad result is that my neighbors on the south side of the street have now inherited the problem.

Apart from the music noise, there is one major public order situation arising from activities in the bar, and this affects my family and, particularly in summer months.

As clients emerge from the bar, they congregate on the pavement, shouting, screaming, singing, occasionally urinating, and almost invariably very drunk.. They are in no hurry to leave. A hungry pack of taxis strive to secure their business. The taxis are uncontrolled, double parking, engines running, drivers shouting, and sounding horns, U turns abound.

The result of this is an untenable noise level in Hart Street in the early hours of the morning. All it takes to ruin a night's sleep is a shouted slanging match at 1 am under my bedroom window. It would be much more serious at 2.30 am.

The security staff of Magoos have no authority, nor interest, in what happens off their premises. On the occasions I have asked the police for help they have 'sent someone around if there's anyone available'. When they arrive some time later, the drunkards have gone, and my family is wide awake! The police are unwilling to tackle the problem of taxis flouting the law – they probably have far more important things to do.

I feel that this nuisance is caused by the availability of alcohol late at night in Magoos. The problem is acute even under the present licensing hours. To extend the hours and permit live music and dancing will encourage a younger, more volatile clientele and extend the well into the night.

I urge you to reject the application.

Yours sincerely,

John Louth