

In the matter the review of Cooling Castle Barn
Medway-05-PREM-0543

Grounds of Review & Supporting Information

1. This is an application for a review of the premises licence of Cooling Castle Barn pursuant to s 51 and 177A of the Licensing Act 2003.
2. Cooling Castle Barn is predominately used as a daily wedding party venue that operates almost daily throughout the year with an additional Christmas Party offering and on site overnight accommodation; it seems that there are on average at most no more than twenty rest days throughout the year.
3. The opening hours of the premises are 09:00 – 23:30 Sunday to Thursday and 09:00 – 00:30 Friday and Saturday. Unfortunately the development of additional overnight accommodation at Cooling Castle Barn has the practical effect that the consequences of the operation of the premises and licensable activities continues long after the ‘official’ closing time. The wedding breakfast parties are typically underway by 9am and continue throughout the day; disturbance from the operation of the Cooling Castle Barn thus typically starts from early in the morning (indeed, nearly every morning) until late at night offering no respite.
4. The Barn has the benefit of a premises licence which permits the sale of alcohol from 13:00 – 23:00 on Sundays to Thursdays and 13:00 – 00:00 on Friday and Saturdays; during December this is extended until 01:00 from Wednesdays to Saturday.
5. Contrary to the premises licence, the website confirms that alcohol is sold and supplied to the wedding party in the Moat House from as early as 8am. The website offers ‘... a scrummy breakfast, elevenses, a glass or two of bubbles and the undivided attention of everyone around you.’ The Heritage Barn is, according to the website, open from 11am for friend and family and ‘for guests who are in need of refreshment before they check into their rooms. Or, it is a great place for early guests to sit back, chat to friends and family. Or just sit in the Garden with a long cool drink.’
6. The premises benefits from the deregulation of regulated entertainment and the conditions in relation thereof are likely suspended. Save that recorded music and dancing are permitted until 00:00 on Fridays and Saturdays and that all regulated entertainment is permitted until 01:00 from Wednesday to Saturday throughout December.
7. There are conditions attached to the premises licence, these are either ineffective or effectively ignored by the premises and are in urgent need of review and revision. These include:
 - When regulated entertainment, which generates significant noise, is taking place, doors and windows will be kept shut.
 - Reproduced or live music is to be set at a level so as not to be audible

- at the façade of the nearest residential property.
 - The Designated Premises Supervisor, duty Manager or relevant person should assess noise levels on a regular basis to prevent excessive breakout.
 - No Karaoke will take place on the premises.
 - Outdoor areas will not be used after 23:00 (11pm) on Monday to Sunday.
 - Regulated entertainment will cease at 19:00 (7pm).
 - Deliveries are only to be allowed up to 12:00 (noon).
8. These conditions do not address the actual current operation of the premises which have evolved and intensified in recent years.
 9. Mr & Mrs Holland recognise the benefit of the Barn to the local community and local economy and have benefited themselves from their catering services at their own wedding celebration. Mr and Mrs Holland have also, and continue, to allow the Barn to use their field for wedding photos with the Castle Gates and car parking on the Barn's annual open day. However the operation of any licensed premises must be balanced against the interests of local residents and the wider local community.
 10. Mr & Mrs Holland have been involved in numerous discussions with other local residents concerning the adverse impacts arising from the operation of the Cooling Castle Barn but note the understandable reluctance to make official complaints within such a small community.
 11. For a considerable period of time the Cooling Castle Barn has been a source of anti-social behaviour, nuisance and disorder; disturbance arises, in particular from noise nuisance (caused by entertainment and patrons) and also other forms of nuisance. Typically the sources of concern are the extent of the audibility of the amplified music and in particular the bass frequencies from internal events, noise from people associated with the external use, dispersal and the resident after-hours crowd and the impact caused. This is exacerbated even by "low key" events because of the poor sound insulation of the structure and of the frequency of disturbance results from the almost daily use of the Barn and the external areas – this ensures that there is a constant noise impact generated by the commercial operational use of the Cooling Castle Barn.
 12. Apart from recorded amplified music presented by the in-house DJ examples of live music, all of which have been heard and experience from the external areas, include: bagpipes, steel band, brass band, string quartet. This is all too frequently accompanied by communal *singing* to the pre-recorded 'classic anthems' typically played at weddings and parties. These are quite part from the amplified speeches with accompanied applause and cheers in response.
 13. The adverse impacts from the operation of Cooling Castle Barn have been exacerbated since the construction of the additional overnight accommodation sometime in 2007/08.
 14. Between the 9th – 26th June, 2017 officers of the Medway Council

Environmental protection Team visited the Cooling Castle Barn on nine different dates and on multiple occasions on the majority of those dates where they witnessed noise from amplified and non-amplified music, patrons, vehicles, extractor type fan and air compressors. It was determined by the Environmental Protection team, that the levels of noise from the premises when taking into account the frequency and duration is sufficient to be considered a statutory nuisance and the Council issued a Noise Abatement Notice on the 29th June, 2017 in accordance with section 80 of the Environmental Protection Act 1990.

15. Additionally on two occasions, both in the afternoon, the Environmental Protection team witnessed pungent cooking odour sufficient to constitute a statutory nuisance and issued a further Statutory Notice, also on the 29th June, 2017, in accordance with section 80 of the Environmental Protection Act 1990.
16. A copy of both these notices are attached to this review application.
17. The Holland family and their guests were asked to keep a diary of anti-social behavior, nuisance and disorder coming from the Barn from April to early June to assist with the investigations of the Environmental Protection team. The diary provides a snap shot of the impacts throughout the week, throughout the day from early morning until late at night and into the early hours.
18. Attached is a letter from Mr Holland to Sarah Foster dated 6th June, 2017 with a diary of impacts dated 2nd April – 3rd June, 2017. Additional diary entries have been maintained and are supplied with this application.
19. There have been ongoing discussions with the operators of the Cooling Castle Barn since at least about 2007 when it would seem that the wedding and party business was intensified. The issues consistently raised have been in respect of recorded and live music and amplified speeches from internal areas; live and recorded music, from external areas; noise from patrons either leaving the premises or those that remain on-site continuing their celebrations long after the end permitted activities and opening hours. There has been some sound proofing of the Barn though this has been undermined by what seems to be the purchase and installation of a larger PA system. The unsuitability of the location is further undermined by ineffective supervision and management.
20. The Castle has previously privately commissioned two Noise Impact Assessments by MRL Acoustics. The first, dated January, 2015, was carried out between 12:00 on Monday 8th December until 16:00 on Monday 15th December, 2014. The assessment concluded that ‘every song played in Cooling Castle Barn was clearly audible and identifiable in terms of both music and lyrics. Noise from guests’ voices was clearly audible with some being at very raised levels. The low frequency bass was also very noticeable and every beat in each track was distinguishable from the next’ (para 2.4). The first report concludes that there is a ‘significant adverse impact’ (para 4.2) and that it ‘could be deemed to amount to a Statutory Noise Nuisance under the Environmental Protection Act 1990.’ (para 4.3).

21. The second Noise Impact Assessment, dated October, 2015, was carried out between 12:00 on Saturday 4th July until 10:00 on Sunday 19th July, 2015. It was noted that 'every song played in Cooling Castle Barn was audible at the monitoring location at the façade of the residential dwelling at Cooling castle though the song title and actual lyrics were not clearly indentifiable.' (para 2.4)
22. Furthermore, 'noise from guests' voices was very audible for the majority of the attended survey with some being at very raised levels. It seemed evident that there were large groups of guests outside the barn and congregating on the open area adjacent to the boundary wall with Cooling castle. As the weather during this event was very warm then this is most likely the reason that so many guests were outside for prolonged periods.' (para 2.5). The ongoing observation and recordings by MRL none-the-less demonstrate that the outside noise impact is a factor that causes significant disturbance throughout the year. The distinguishing feature is that there is less live music outside during the winter months but the same number of patrons throughout the year gathering and using the external areas.
23. The second report concluded that 'the low frequency tonal element of the amplified music has been reduced to a noticeable degree ... however, the amplified music was still audible at the façade of the residential dwelling at Cooling Castle.' (para 4.3) Music is only one element of the adverse impacts from the operation of the Cooling Castle Barn and that 'noise from guests' voices outside the barn was resulting in a significant noise impact.' (para 4.4). Again, with the second report concluded that it 'could be deemed to amount to a Statutory Noise Nuisance under the Environmental Protection Act 1990.' (para 4.5).
24. Both these reports are attached to this review application. MRL have continued to make recordings and monitor the disturbances from the premises; a compilation of recordings has been provided by MRL and is attached to this application.
25. The matters identified in December 2014, July 2015 and June 2017 consistently identify anti-social behaviour, nuisance and disorder from Cooling Castle Barn. These independent professional assessments confirm the ongoing nuisance experienced by the Barn's neighbours, a snap shot of which is provided by the recent diary entries from April to early June, 2017.
26. Mr and Mrs Holland acknowledge that through informal discussions with the operators of the Castle Cooling Barn some efforts have been implements in an attempt to mitigate the adverse impacts from the operation of the parties at the Castle Cooling Barn; these have failed to have any significant or lasting effect. Mr and Mrs Holland have personally implemented mitigating measures such as secondary glazing on all the downstairs windows. The management of the Cooling castle Barn are either unable or unwilling to make and maintain the operational changes required in order to effectively promote the licensing objectives.

27. Despite numerous letters, e-mails, texts, calls and meetings with the management the adverse impacts of the operation of Cooling Castle Barn continue to blight the lives of its nearest neighbours and adversely impact on the wider community.
28. The management continue to seek the intensification of their operations, most recently by attempting to remove the condition which prohibits the use of outside areas after 23:00. This demonstrates a clear and patent disregard for the adverse impacts of their operation upon their neighbours and the promotion of their business over the promotion of the licensing objectives.
29. It is with regret that this application is now being made; the operation and attitude of the Cooling Castle Barn leaves no alternative but to seek the formal assistance from the licensing authority.
30. By way of *postscript* the intensification of use at Cooling Castle Barn persists. By application for a variation to the existing premises licence Cooling Castle Barn are now seeking for a late night smoking area for thirty people from 23:00 onwards! Given the ongoing documented concerns and the outstanding Noise Abatement issues this application at this time is astonishing and insensitive.
31. This review is made pursuant to sections 51 and 177A of the Licensing Act 2003 in order to:
 - [1] review the suitability of the current operation in this particular location;
 - [2] review the extent and scope of the premises licence in respect of the licensable activities permitted, the number of internal and external events, the location of events and the days and hours of operation;
 - [3] review the number of internal and external events permitted at the premises including any seasonal variations;
 - [4] review the opening hours of the entire premises to which non-residential patrons are permitted on the premises;
 - [5] review the operating conditions in respect to the activities on the entire premises in respect of each of the buildings and the use of the outdoor areas;
 - [6] review the extent and scope of using the outside areas during and after events, and
 - [7] in particular, the applicants are extremely concerned about the continued use of the outside area.
32. The purpose of this review is to invite the local licensing authority, along with the operator, to review the operation of the Cooling Castle Barn to balance the needs of the small local community as against this expanding commercial operation and provide some respite from its daily operation. Below are *some suggested* conditions to achieve this balance:

Licensable activities and opening:

[1] No licensable activities to be permitted on the premises on any Sunday, Monday, Tuesday or Wednesday.

Use of external areas & smoking area:

[2] There shall be no entertainment or recreational use of the front external area at any time save for access and egress, in particular the front area shall not be used by smokers as a smoking area. The premises licence holder shall monitor the front entrance to ensure that its patrons, guests and staff do not congregate in this area.

[3] The car park area shall not be used for entertainment or recreational uses at any time and in particular it shall not be used by smokers as a smoking area.

[4] The premises licence holder shall designate an area, between the accommodation block and Barn as the designated smoking area. The smoking area shall be monitored, smokers shall not be permitted to take food or drink into the smoking area and there shall be no more than nine [9] smokers in the smoking area at any one time; the smoking area shall be covered by CCTV.

[5] The Barn Green shall not be used for any entertainment (including Live Music and incidental music) or regulated entertainment at any time. The Barn Green shall not be used for any other licensable activities before 11:30 or after 17:30. The setting up of this area is not to commence before 10:30 and must be cleared by 17:30. The Barn Green shall not be used as a smoking area outside of these hours. The premises licence holder shall monitor the Barn Green to ensure that its patrons, guests and staff do not congregate in this area outside of these hours.

[6] There shall be no amplification used in the outside areas.

[7] The premises licence holder shall ensure that a minimum of two stewards monitor all the outside areas from one hour before any event until two hours after the official end of any event save where the accommodation is not being used on these occasions the stewards are to monitor for 45 minutes after the end of any event. These two stewards shall wear Hi-Viz jackets at all times.

Noise Attenuation:

[8] The premises shall appoint a suitably qualified acoustician, whom is at least a Member of the Institute of Acoustics, and that they complete acoustic testing of the Barn and other buildings to objectively quantify the resistance of the building façade to sound to the closest residential premises, and make recommendations for how the sound insulation could be further improved, and sound transmission reduced; should it be found that the noise limits set out below do not allow commercially acceptable levels then the works should be completed to improve the sound insulation as far as possible before the acoustic limiter is set up.

[9] The sound from the sound system that is used for amplifying music shall be controlled by the installation of an acoustic limiting device which does not allow the music over any 5 minute period to exceed the following values, when measured at 1.5m height at 3m from the closest residential: Before 11pm $L_{Aeq,F} \leq 40\text{dB}$, $L_{eq, Fast}$ at

63Hz \leq 52dB $L_{eq, Fast}$ at 125Hz \leq 46dB; After 11pm $L_{A Max, F} \leq$ 40dB, $L_{Aeq, F} \leq$ 30dB, $L_{eq, Fast}$ at 63Hz \leq 45dB $L_{eq, Fast}$ at 125Hz \leq 40dB so that it is barely audible at the façade.

[10] The sound from the sound system that is used for amplifying speech shall be controlled by the acoustic limiting device, over any 5 minute period, to not exceed the following values, when measured at 1.5m height at 3m from the closest residential: Before 11pm $L_{Aeq, F} \leq$ 35dB; $L_{eq, Fast}$ at 500Hz \leq 35dB $L_{eq, Fast}$ at 1 to 8kHz \leq 25dB; not audible after 11pm.

[11] The noise limiter shall be set up by the suitably qualified acoustician and the adjustment port sealed with a tamper proof seal, and a report submitted to the Local Authority to set out and record how this was done.

[12] An annual check by a suitably qualified acoustician should be completed every year to confirm that the operational levels have not altered, and a short report submitted to the Local Authority to certify its compliance with the limits. Where there is a change in the sound system or items that affect the level of sound produced then the limiter should be reset, and a report provided to the Local Authority to set out and record how this was done.

[13] No percussion shall be permitted unless it is electronic and which runs through the noise limiter; any live unamplified musical entertainment shall not include any percussive or brass instruments.

Noise & Dispersal Management Plan:

[14] A noise and dispersal management plan shall be submitted and approved by the Local Authority, which sets out how operational noise from all sources, and people using the external spaces, will be managed and minimized to the lowest levels practicable, applying best practice. It shall also include how complaints will be dealt with and the checks that will be made to ensure the noise and dispersal management plan is being implemented. It shall also include how the residents in the accommodation areas are to be managed and monitored.

Deliveries:

[15] There shall be no deliveries before 08:00 or after 12:00.

Bottle Disposal:

[16] Empty bottles will be stored in partitioned crates or other partitioned receptacles and are disposed of no earlier than 08:00 and no later than 12:00.

Security:

[17] A caretaker and / or security operative shall be on the premises at all times that the accommodation area is occupied to monitor the conduct of residents at all times and in particular after the end of licensable activities and the official events.

Summary of Addition Information attached with the application:

[1] Medway Council Environmental Noise Abatement Notices, both issued, 29th June, 2017.

[2] Letter from Mr Holland to Sarah Foster dated 6th June, 2017 with a diary of impacts dated 2nd April – 3rd June, 2017.

[3] Additional contemporaneous notes and diary entries.

[4] Noise Impact Assessments by MRL Acoustics, January, 2015 and October, 2015.

[5] Compilation of audio recordings provided by MRL along with updating Noise Monitoring Audio Report, November, 2017.

[End]