

Representation – application MBRO/PRO239/104725, Tiger Ivy, 58 Albert Road, Middlesbrough

The applicant describes the premises as a bistro style eatery and licensed premises. There would be vocalists or other appropriate music and acts playing that are right for the venue. The application also states that the regulated entertainment would include plays, live music, recorded music and performances of dance, as well as the provision of late night refreshments and the supply of alcohol.

The hours of operation are stated as 11am to 1am 7 days per week. Recorded music is to be played during the day and evening and some dancing may take place at private functions. Late night refreshments may include food being served after 11pm.

Under the licensing Objection of the Prevention of Public Nuisance the applicant states that the business will maintain a refusals book where the sale of alcohol has been refused.

The premises is located in a building that has private residential accommodation directly above and to the side – above the HSBC bank. Actual occupation of these properties is not known but planning consent is being sought for the first and second floor above HSBC to become private residences.

The prevention of public nuisance does not have a statutory meaning and a broad common law meaning is applied. Nuisance can include intrusive noise and vibration, intrusive artificial light, odours and other adverse impact on the immediate vicinity such as from littering.

Nuisance may be caused by the direct operational activities of a premises from the use of internal and external doors, the management of waste and its storage, the sound generated by ventilation systems, noise from staff and patrons and any entertainment such as playing amplified or live music.

As described above, under the Public Nuisance objective, there is no reference to any types of potential nuisance affecting those in the vicinity, particularly the current and future residents living above and to the side of the premises. Therefore consideration and mitigation of potential nuisance, particularly from intrusive noise, has not been demonstrated.

To be satisfied that the public nuisance licensing objective can be met, the applicant should be able to demonstrate through appropriate acoustic assessment that the private residential dwellings will not be adversely affected. This would need to apply during the day but especially after 11pm.

Middlesbrough Council Licensing Policy states that "In predominately residential areas the Licensing Authority will normally expect licensable activities to cease at 11pm, with premises to close no later than 11.30pm."

Although the location of the proposed venue is within the town centre, the existence of residential dwellings directly above and to the side(s) should be given due consideration as a residential area.

It is possible that through acoustic assessment and, if applicable, acoustic protection measures, that intrusive sound emitted from the premises into neighbouring dwellings may be effectively prevented. However, there remains a potential for noise after 11pm from escape through openings (windows/doors) when in use, as well as noise from patrons entering or leaving the premises after 11pm. On this basis it would be our recommendation that the operating hours be restricted to 11pm and that a license not be granted unless the applicant can demonstrate that there will be no nuisance caused to adjoining dwellings.

