

APP 1



**WARWICK DISTRICT COUNCIL**  
Licensing Act 2003

**REPRESENTATION FORM FROM RESPONSIBLE  
AUTHORITIES**

Responsible Authority – Environmental Services, PO Box 2176,  
Riverside House, Milverton Hill,  
Leamington Spa CV32 5QF

<b>Your Name</b>	Peter Lawson
<b>Job Title</b>	Senior Environmental Health Officer
<b>Postal and email address</b>	Warwick District Council, PO Box 2176, Leamington Spa CV31 5QF
<b>Contact telephone number</b>	01926 456725

<b>Name of the premises you are making a representation about</b>	Art and Wine, Licence Application dated 13 <sup>th</sup> December 2010
<b>Address of the premises you are making a representation about</b>	8 High Street, Warwick

<b>Which of the four licensing Objectives does your representation relate to?</b>	<b>Yes Or No</b>	<b>Please detail the evidence supporting your representation. Or the reason for your representation. Please use separate sheets if necessary</b>
<b>To prevent public nuisance</b>	Y	<p><b>Noise from the external courtyard area causes nuisance to nearby residents at night.</b> An Abatement Notice has been served on Art and Wine Ltd in respect of noise of music and voices from the courtyard. That notice has twice been breached when nuisance was caused by noise of voices from the courtyard.</p> <p>There is potential for noise from within the building to cause nuisance to nearby residents and occupiers of adjoining properties</p>

<b>Suggested conditions that could be added to the licence to remedy your representation or other suggestions you would like the Licensing Sub Committee to take into account. Please use separate sheets where necessary and refer to checklist.</b>	See Report Attached.
---	----------------------

Signed:

Date:

16/12/10.

**Report to Licensing**  
**Regarding Noise Nuisance to local residents arising from use of the rear court yard at**  
**Art and Wine Ltd, 8 High Street, Leamington Spa**

This premises has developed from a shop to into a full blown Wine Bar .

**Noise From The Court Yard**

The rear courtyard was fitted out as a drinking area with furniture , parasols and heaters. Permanent roofed shelters have been built in the courtyard against the boundary walls.

We, Environmental Services received complaints from occupiers of neighbouring premises regarding noise from the rear court yard of Art and Wine 8 High Street which was being used as a drinking area by patrons of this wine bar. A number of residences overlook or are within earshot of the courtyard

An Abatement Notice was served upon Art and Wine Ltd in respect of noise from the Courtyard in September 2010 when sound of music and voices from the court yard was intrusive into a neighbouring residence loud enough to prevent sleep.

The Abatement Notice has since been breached on at least two occasions since then when our officers have witnessed loud noise of patrons in the court yard intrusive into neighbouring residences, and allegedly at other times when officers were not on duty. The breaches demonstrate that the noise cannot be effectively managed by the proprietors attempting to keep their patrons quiet in the courtyard.

Clearing the court yard by a certain time is not effective since the noise problem has been witnessed by me in the afternoon Short of constructing a fixed roof of suitable design, I cannot see how the noise of patrons can be contained within this space.

Prosecution is contemplated for the breaches of the Abatement Notice.

In light of the above on 3<sup>rd</sup> December 2010 the Licensing Review Panel applied conditions to the existing licence prohibiting the use of the court yard by staff and customers.

We note that in this application for an Alcohol licence Art and Wine Ltd have "volunteered" not to use the courtyard. However this is in the context of "*sale of alcohol complimentary to the selling of wine and/or the viewing of art*".

At the same time as making this licence application Mr Gomez submitted 3 Temporary Event Notices for a range of dates when music will be played. These events are not complimentary to the selling of wine. WE would not wish to see the court yard used on the pretext of a temporary event. **Hence we request that the prohibitions on the use of the court yard are made conditions of *this* alcohol licence such that they apply at all times, even when a temporary event notice has been given.**

**Potential Noise From Within The Building**

In the context of *public* nuisance arising from *licensable* activities there are currently 2 potential issues namely noise of music and/or voices transmitted through the structure to the adjoining properties at 6 and 10 and escape of the same through open doors or windows.

Continued.....

The review panel sought to prevent this by the imposition of further conditions on the existing licence imposing a noise limiting device and requiring that doors and windows are kept shut. Requirements which are voluntarily agreed by the applicant for this licence. However we are again in the difficulty that this agreement is in the context of "*sale of alcohol complimentary to the selling of wine and/or the viewing of art*".

The most likely time for "noise break out" from the building is when an entertainment is taking place. That is when the sale of alcohol is not complimentary to the selling of wine or the viewing of art. **Hence we would request that the noise limiter condition and the doors and windows condition are made conditions of *this* alcohol licence such that they apply at all times, even when a temporary event notice has been given for regulated entertainment.**

#### **Temporary Event Notices Submitted By a Personal Licence Holder**

We note that temporary event notices have been submitted by a personal licence holder, who is not the applicant for this licence. If the Licensing Panel finds that it cannot regulate temporary events through the route set out above we are minded to serve a further Environmental Protection Act 1990 Abatement Notice on Art and Wine Ltd and / or the personal licence holder explicitly forbidding use of the court yard.

**Peter Lawson** BSc (Hons) MSc MCIEH  
Chartered Environmental Health Practitioner  
Senior Environmental Health Officer

16<sup>th</sup> December 2010