

Representation from LBE Commercial Nuisance

Dear Licensing,

Under the licensing objective of prevention of public nuisance, I provide the following representations based on noise nuisance caused to neighbouring premises.

Complaints about noise started on 20/10/2022 where noise was allegedly affecting residents residing in the flats located on the upper floors of the building. These complaints were received by both Commercial Nuisance and Licensing Enforcement teams.

The premises has been converted to a restaurant from its former use as a bank. Under The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, such a change is permitted without the need for planning permission. Planning records do not show any previous restrictions to opening hours.

On 02/11/2022 I contacted Mazlum Demir by phone and advised him of the noise complaints. I then visited the restaurant the same day and looked at the layout of the premises and how the loudspeakers were affixed to the ceilings. I was shown some acoustic panels fitted to the ceiling and was told they had employed acoustic specialists to help avoid noise nuisance. I gave advice regarding how nuisance was assessed and that the onus was on them to avoid causing nuisance.

Afterwards I met a group of residents who all resided in the flats on the upper levels who explained to me the problems they had with noise. I advised them of the need to contact the council when noise occurs so that officers could visit to assess for statutory nuisance.

Subsequently a series of complaints and visits made by Out of Hours officers. Not all were visited on time and on several occasions the noise was only considered to be an annoyance rather than the higher bar of a nuisance.

However, on one occasion a Statutory Nuisance for noise was witnessed and an Abatement Notice was served on 10/11/2022 under the provision of Section 80 of the Environmental Protection Act 1990.

On 12/11/2022 I was on Out of Hours (OOH) duty and visited a complainant. As agreed on a previous occasion, I called Mazlum Demir by phone whilst in a flat and talked with him whilst he adjusted volume levels for different speaker around the restaurant (front/middle/rear banks). I then went down to meet him to discuss options, whereupon he said we could try adjusting left/middle/right banks of speakers. Unfortunately, I was the unable to go into the flat to test further. Mr Demir stated he is still going to hire an acoustic specialist to find a permanent solution to help cease causing a nuisance without having to resort to lowering music levels too much.

Following on from this, further complaints had come in at weekends and though some of these resulted in the noise only being an annoyance , another Statutory

Nuisance was witnessed on 26/11/2022. This was a breach of the notice meaning an offence was committed. As a result, a Fixed Penalty Notice was served, giving opportunity to discharge any liability to conviction for this offence. I made Licensing Enforcement aware of this, triggering a licence review process, whilst the FPN was paid on 16/12/2022 which was acknowledged by Commercial Nuisance. No further breach of notice has been witnessed since, which could lead to another FPN or prosecution.

On 23/01/2023 a meeting was held between representatives of the business and the council. Present were Mazlum Demir (owner), Mahir Kilic of NARTS (licence review rep), Ned Johnson (Principle Pollution Control Officer) and myself (Commercial Nuisance officer). We discussed what actions taken so far and proposals of future actions to prevent noise nuisance.

The owners commissioned an acoustic survey and report to measure the airborne sound insulation of the separating floor between the restaurant and the first-floor flats above. Following completion of the measurements the acoustic consultant predicted the sound levels in flats 11 and 14 due to musical entertainment in the restaurant. On the basis of the calculation the consultant proposed a Noise Rating Curve 14 (NR14) would be a suitable criteria to be met in flats 11 and 14 due to musical entertainment. In order to achieve NR14 a music sound level limit for the restaurant was calculated and this will be controlled by the installation of an electronic noise limiter. The consultant will set-up the noise limiter, once installed, according to the sound levels they recommended; once this has been done the music volume will not be able to go beyond the set levels. It is my considered opinion that this will adequately control the sound from musical entertainment. There were also some structural works required in terms of isolating all of the loudspeakers from the building structure using neoprene fixings. The report also stated that if the restaurant wanted to play music louder than the level recommended in the report, they proposed sound insulation works to the separating floor.

A condition could be applied to the licence for controlling sound levels with the use of a calibrated noise limiter. The precise wording of which will need to be decided once their acoustic consultant has completed all testing.

Regards,

Mr Joynul Islam, *BEng(Hons)*
Environmental Protection (Commercial Nuisance) Officer
Pollution Control & Planning Enforcement
Development Management
Place Directorate
Enfield Council
Civic Centre, Silver Street, Enfield, EN1 3XE