

Swee Leng Teong
26 Abbotts Road
Sutton
Surrey
SM3 9TA

Corporate Post Room

27 FEB 2018

Licensing Team
Shepway District Council
Castle Hill Avenue
Folkestone
Kent
CT20 2QY

20th February 2017

Dear Sir/Madam,

**Representation for licence review hearing
Submitted by the Bank Bar**

We enclose our representation for the licence review hearing. It contains a 12-page response responding to the concerns Environmental Health have brought up as best we could, along with supporting documents to act as references, numbered from DOC1 to DOC15.

Electronic copies of the contents of this letter have been sent to Mr Atkins via email on the 21st February.

We would be grateful if you were to acknowledge that its receipt by sending an email to bankbarfolkestone@gmail.com

Yours faithfully,

Swee Leng Teong

Prevention of crime and disorder

"The Community Safety Unit have received..." – Muddles passage is a public thoroughfare that connects Ingles Road to Bouverie Road West. We have done a survey of the Muddles Passage The vantage points from complainants' properties overlooking it do not have the benefit of allowing a simultaneous view of the bar entrance around to where the complainants allege anti-social behaviour arising from bar patrons. It would therefore be reasonable to inquire how it is the complainants are able to support the specific aspect of their allegation concerning the offenders' relation to the bar.

Until recently, Muddles passage was very poorly lit. Areas with inadequate lighting are prone to anti-social behaviour, especially in Folkestone and we believe this is a better explanation for report SCSU-01 than is alleged.

"Crimes since October 2016"

A list of police crime reports in and by itself runs the risk of misrepresenting how we attempt to promote this particular licensing objective, especially when presented so succinctly and without consideration of context.

28/01/2017 (2340 hrs) – Crime reference ZY/3822/17 – Assault

Please see the section beginning "28/01/2017 (2355hrs) :: 28-1390 – Fighting at location."

21/04/2017 (23:38hrs) - Crime reference ZY/15779/17 – Criminal Damage

Crime ZY/15779/17 for Criminal Damage was reported to the Police by the assistant bar manager. The criminal damage was to our air-conditioning units. A number of a group of individuals possessed false identification and on being refused entry by security supervisors, attempted to gain entry onto our premises through a subsidiary exit, thereby causing this damage. The remaining group of individuals who did not possess false identification and were granted entry proceeded to open the subsidiary exit to allow those who had been refused entry onto our premises.

This was acted on by management immediately, and the entire group was asked to leave. The accompanying photographic evidence shown to Police is attached in document reference DOC1A and DOC1B. Note the time stamp of the CCTV image taken which was submitted to the Police in the top left corner.

An extract from our incident book is also provided in document reference DOC2.

23/07/2017 (02:15hrs) – Crime reference ZY/35564/17 – S4 Public Order

Crime ZY/35564/17 for S4 Public Order was reported to the Police by the assistant bar manager. An email of correspondence aiding the officer's investigation is supplied in document reference DOC2A.

In light of the above, it is not right for these three crime reports to be used as evidence of the bar failing to promote this particular licensing objective. We would go further and add that it would be a perverse state of affairs for two reasons.

Firstly, it would dissuade licensed premises from ringing the Police for assistance in the event that graver situations arose, out of fear that records of (self)-reported crimes to Police would be used against them. Our ability to secure the safety of their patrons would be handicapped if the above evidence is determined as indicative of a failure to promote this licensing objective.

In addition to this, as one licensed premises out of a network of night-time economy venues, we believe an important part of our working relationship with Kent Police on preventing crime and disorder is in the contribution of local intelligence on offenders each time there is crime and disorder. To cite a list of (self)-reported crimes in which we have co-operated, without listing or making any effort to show who made the reports, contravenes the spirit of co-operation between licence holder and relevant authority which we believe the Licensing Act was drawn up with a view to.

We are unsure whether or not it is suitable for a local authority Environmental Health department to be dealing with matters of crime and disorder. We would be interested in hearing what Kent Police have to say on the matter.

“Calls to Police since Oct 2016”

We provide relevant extracts from our incident-book, which logs refusals, ejections, disorderly conduct, permanent exclusions and illegal weapons/drugs confiscations. Where an extract is not provided, either the bar was not open, or there was nothing significant to report for that evening.

28/01/2017 (2355hrs) :: 28-1390 – Fighting at location

This was the one serious incident in 2017 where an off-duty security supervisor was assaulted by a group of young males whom had been refused entry and whom were told to move far away from the premises. The conflict was managed, the offenders ejected, and one male was arrested. The off-duty supervisor’s services was contracted for the duration of an hour or so while he gave evidence to Police along with the other security supervisor who was on-site. Remunerating him for his time was by no means necessary, but it was decided that it would aid the Police investigation.

We enclose an extract of our incident-book related to this incident in document reference DOC3.

29/04/2017 (0220hrs) :: 29-0136 – Noise nuisance

A female was refused entry for having the wrong attitude. She became aggressive and her partner threatened the door-supervisor on duty with violence. The situation was diffused and she promptly left. This situation lasted 10 minutes.

We enclose an extract of our incident-book related to this incident in document reference DOC1

13/05/2017 (0039hrs) :: 13-0037 – Concern surrounding underage drinking at the venue

At 22:50, one of the door supervisors suspected an individual to be underage, from his own knowledge. He was asked to leave.

We enclose an extract of our incident book related to this incident in document reference DOC4

At this stage, the only people who knew that this individual was underage and had been ejected were members of management and door supervisors. It would therefore not be unreasonable to inquire how knowledge of this incident came to be reflected in a call to the Police from a concerned member of the public, especially in light of what we present later on in this section.

25/06/2017 (0229hrs) :: 25-0204 – Noise nuisance

There were no events held that entire weekend. This is a poignant and representative example of how public anti-social behaviour in Folkestone is attributed to the activities of our bar.

19/08/2017 (0113hrs) :: 19-0102 – Persons seen using drugs in toilet

Toilets are checked every half-hour. No persons were seen using drugs in the toilet, otherwise offenders would have been asked to leave and it would have been logged in the incident-book.

29/10/2017 (0100hrs) :: 29-0112 – Male has become aggressive in the premises towards informant. Informant had left the premises so no requirement for Police attendance. Informant later refused to engage with Police.

10/12/2017 (0300hrs) :: 10-0156 – 2 males have been arguing outside the premises for approximately 30 mins after coming out of the club. Informant advises that the club should have closed at 2am but was still carrying on until 3am.

For these last complaints, our incident book does not have any records, implying that security supervisors were not aware of these incidents occurring. Did the informant not think to notify security supervisors?

The above complaints to the Police have to be read in light of the finding below. We enclose posts from a Facebook group, named “Bank Bar Action Group” in document reference DOC5 . The group comprises around 20 members. We can draw the following conclusions from this group:-

- Local residents who might not otherwise complain are being incited to complain to the various Responsible Authorities by Zoe Bowden
- Local residents are both praised for making complaints, and encouraged to make them.
- Complaints are of a proactive nature, not reactive to incidents.
- Complaints are also being used as part of a wider political strategy to induce the Planning Authority to refuse what was then a variation of condition application.

The consequences of these conclusions are that:-

- Using complaints as part of a political strategy undermines the validity and spirit of genuine complaints.
- It also undermines the objective of a genuine complaint, which is to seek long-term solutions through reciprocal political agreement and recognition on an element of perceived wrongdoing.
- It has the potential to cast a shadow over the credibility of existing complaints, and over the validity of the local authority’s use of number of complaints as a general indicator of disturbance.
- The above points must be factored into the balance of the probability assumed in assessing the validity of these complaints.

The main communication channels for the Bank Bar are our email and Facebook message inbox clearly listed on our Facebook page, to which we regularly receive messages about our opening hours. We also uploaded a special mobile number of the DPS after the mediation meeting to act as a complaints hotline. Evidence of this is provided below in document reference DOC6.

Over the entirety of 2017 and 2018, we have no received no direct complaints to management from residents through any of the communication channels specified above. We would be prepared to give a list of our phone logs, emails and messages received over this period if the situation required it. Due to the administrative time involved in compiling such information, we do not feel it is necessary to reveal this information at this stage.

Public safety

“There have been no door staff witnessed by ERO on 30/09/17”

The door supervisor on duty that night was Nick Franks, SIA Licence number 0130110281666118, and he was on-site from 21:00 to 03:15. We have contacted him and he is prepared to give a witness statement should this matter go to the Magistrate's Court.

We think it would be appropriate to inquire why it did not occur to the ERO to come and visit the premises to make the relevant inquiries, nor to inspect our sign-in sheets at the time of the event, rather than relying on inaccurate visual inspections from afar.

Our licence conditions were drafted to be realistic and to be flexible to variations in the nature of the bar business. For this reason, there is no stipulation of the number of door supervisors required on any particular day. Consequently, the absence of a door supervisor in and by itself does not represent a breach of the conditions specified under Annex 2 of premises licence SHEP00687/17.

However, we emphasise that while not having door supervisors remains an option, we have never exercised that option, as our risk-assessments suggest that it would not allow us to appropriately promote our licensing objectives.

We believe that if there were genuine doubts as to the presence of door supervisors, the Licensing Authority would have conducted spot checks. In the entirety of 2016, 2017 and 2018, we have not received any scheduled visits from any of the Responsible Authorities.

"There have been a number of taxis associated with patrons of the Bank Bar blocking the public road..."

We do not believe that this is an issue of public safety.

We believe that this is the reason for there not being specification of conditions relating to this in Shepway District Council's Licensing Policy 2016, nor of a specification of highway management as Responsible Authorities in Appendix A.

This is enclosed in document reference DOC7

Prevention of public nuisance

We disagree with the position that we failed to promote this licensing objective and that "the warnings the council have issued to the licence holder are not being adhered to and all requirements are being ignored."

We already have a Noise Management Plan as part of our Operational Plan submitted with our premises licence, and enclose it below in document reference DOC8

We believe it is appropriate to give an account of the mediation meeting here, extracted from minutes written by the assistant bar manager immediately after the meeting. It is hoped that it will give provide context towards better understanding how we have done our utmost to promote this licensing objective, in spite of behaviour undermining the spirit of co-operation that should exist between a licensed premises and Environmental Health.

We will list some of the general problems faced with regards to this licensing objective that arose in the meeting, for two categories of noise. That is interior noise leakage from amplified music sources, including low frequency noise; and exterior noise from patrons in the smoking area.

During entire period, points from the Operational plan, submitted with the licensing document, continue to be followed.

Interior noise leakage

This category of noise is covered by the last two points listed on the undated mediation letter document reference SML/01, reproduced below:

- How long the doors remain open and to consider the use of a double door system to minimise the escape of noise
- The music sound levels

Since the application for an extension of the Bank Bar hours in 2016, we have long recognised the importance of setting appropriate music levels, and this is reflected in our repeated requests for technical guidelines.

Our reasons for requesting quantitative noise guidelines specified in objective, scientific measures were the following. Guidelines would allow for greater transparency and accountability in the management of noise, it would allow for a dialogue between licensed premises and Environmental Health that was based in scientific measurements rather than purely subjective assessments, and it would give us an enforceable standard with which to comply. This was requested with a view to the inclusion of said quantitative guideline in Annex 2 of our premises licence conditions.

Evidence of our requests are shown in the reference letter accompanying premises licence application, document reference DOC9 and the subsequent letter sent on Monday 20th March 2017 in document reference DOC10

In addition, we requested these because it is our opinion that any credible document dealing with the issue of noise must be grounded in scientific measures, to eliminate subjectivity. This is a position supported by guidance documents on best practice issued by the Chartered Institute of Environmental Health, enclosed below. One of the recommendations is for "service standards relevant to those duties and local policy should be" at least the "maintenance and calibration of measurement and recording instruments" under Section 3.1.1 of Service Standards in the Neighbourhood Noise Policies and Management Guidance for Local Authorities, issued by the Chartered Institute of Environmental Health.

This can be found on page 23 of document reference DOC 11

We are also aware of many local authorities that recommend licence conditions codified in terms of a quantitative guideline, namely Manchester Council, Islington Council and Dover District Council to name a few.

An example of the type of noise guidance we are referring to can be found in document reference DOC 12

Our interactions with Environmental Health indicated that they were not in a position to issue nor to assist in setting a guideline level for music noise levels. This was because they believed that it was unnecessary.

Mr Atkins stated that Environmental Health's refusal to give quantitative guidelines was because it did not account for "variations in noise sensitivity among complainants", and because "under the Environmental Protection Act 1990, no measurements needed to be given in order to justify the presence of a statutory nuisance." Whilst the former reason was not a position we were comfortable with, precisely because the idea of statutory nuisance is couched in the language of a "reasonable person", we were happy to accept the latter position.

However, we do not believe that our acceptance of that latter position is incompatible with the idea that in order to achieve a genuine, long-term solution to the issue of music noise levels, a

quantitative measure should be included in Annex 2 of our premises licence conditions. In this case, should there be a reported noise nuisance, an ERO could take measurements in complainants' properties and relay them to us, and we could amend the calibrated levels in our sound system accordingly.

In the absence of guidelines, we instructed Old Barn Audio when the system was installed and calibrated, to program the sound system in accordance with guidance issued by DEFRA on Noise from Pubs and Clubs, so there was an absolute maximum volume limit of 95 dB(A) in the small dance area of the bar. Please see page 9, paragraph 2.1.1.4 of document reference DOC13 . Note that the DEFRA guidance specifies that "many bars playing music had [internal] noise of 90 – 95 dB L_{Aeq} during busy periods, with noise levels on dance floors of night clubs measured at up to 105 dB L_{Aeq} ". The existence of an absolute volume limit was questioned by Mr Stephens in the mediation meeting.

Following the mediation meeting, and in line with what was asked of us, we instructed Able Acoustics Ltd in September 2017 to produce an acoustic report with a view to best reducing the noise from our premises. We chose Able Acoustics Ltd because they were very helpful and are accredited by the Institute of Acoustics.

We enclose this report in document reference DOC14. Note that the measurements taken in the "inside bar area" with calibrated equipment show a value of 95.3 dB(A), corroborating the account we have consistently given over the duration of our interactions with Environmental Health. This is shown on page 11, Section 5.1 Noise measurements of document reference DOC14. These measurements represent an absolute worst-case scenario on our music noise levels, and in practice, the sound system is run at an order of magnitude below this level. Our sound system amplifiers, which control the loudness of the output sound in our bar are locked in a cabinet that can only be accessed by the manager. If that is not adequate, we would look to Mr Crofton-Martin of Able Acoustics to comment on the matter.

We also hope that this dissolves any doubts that were expressed in the mediation meeting on whether a volume limit had been programmed into our sound system.

With respect to the doors at the premises, there already exist two sets of doors at the main entrance to the Bank Bar on Castle Hill Avenue. There is already a self-closing mechanism on one of these doors. However, when patrons enter and exit, both doors will temporarily be open. The only means of prolonged music noise leakage is when doors are held open by patrons.

In accordance with our Operational Plan, security supervisors will always be briefed at the beginning of the night that patrons cannot be allowed to hold open the doors. Generally, it is our policy to contract the services of at least one security supervisor each night we are open, depending on risk-assessed evaluations of how busy the night will be. The security supervisor with responsibility for manning these doors is usually stationed at the bottom of the stairs, at the entrance to the Bank Bar, unless he has gone to the toilet, at which point a member of staff will take his place. A briefing for security supervisors that has been operational since 1st February 2016 and updated in March 2017 is enclosed in document reference DOC15.

We do not believe any of the evidence cited from SERO/01 to SERO/06 shows on balance of probability that security supervisors are not fulfilling their responsibilities. There is no mention of patrons holding open the doors for prolonged period of greater than 30 seconds, save for one. Rather, it attributes noise nuisance and leakage to arising merely from patrons entering and exiting the venue. That is unfortunately not something we can reasonably control, without barring all exit and entry from the venue.

Furthermore, in reports SERO/01 to SERO/06, there is no satisfactory explanation of how it is we are failing to adhere to our licencing conditions, nor of how failing to adhere to these licencing conditions have led to the purported nuisance.

We believe this problem is exacerbated by there not being standards of accountability for us in the form of quantitative guidelines.

During the meeting, one proposed idea was that the double doors be modified so that they could be opened independently of one another. The idea behind this was that it would lead to the creation of a sound corridor to trap noise. We expressed that we would have to assess the financial viability of such measures, as they were expected to be costly.

Exterior noise leakage

This category of noise is covered by the first two points listed on mediation letter, document reference SML/01:

- Security staff and the management of people gathering outside
- The number of people using the smoking area and the amount of time they spend outside

Our current policy regarding this is reflected in our Operational Plan. Security supervisors enforce a limit on numbers of patrons in the smoking area. Normally this is between 15 and 20 people, but this depends on risk-assessed evaluations of the general nature of the clientele we receive. When patrons come outside to smoke, they are informed to be quiet and to respect the rights to a quiet life that our neighbours can reasonably expect. We operate a three strikes policy leading to exclusion for those who are deemed to be too loud in this area. Patrons are usually given around 10-15 minutes to smoke and those not smoking are asked to go back into the premises. Security staff have also been briefed that all patrons smoking must remain on our property and not congregate on the pavements. Therefore anyone who congregates on the pavement is understood to have left the premises, unless explicit permission has been sought from the security supervisors, such as getting cash from the cash machine at TESCO Express opposite.

We have consulted archived CCTV records of the events in question and note that numbers in our smoking area, excluding any members of the public not on our property, do not correlate with the numbers reported by the ERO in SERO/02 and SERO/04. In particular, it remains to be clarified:-

- i) whether these were people waiting to be granted entry to the bar
- ii) whether or not they were refused entry or had decided to leave and been told to move on
- iii) whether they were our patrons

There must be a factual inaccuracy with report SERO/04 – on the weekend of the 23rd and 24th December, we were closed for business in line with the Christmas holidays. Perhaps it could be clarified what dates Environmental Health are referring to?

Furthermore, while reports SERO/01, SERO/03, SERO/05 and SERO/06 mention numbers in the smoking area, none of them mention more than 10 people.

We believe it is reasonable to inquire what evidential tests are being used by Environmental Health to determine what constitutes “public nuisance”, and whether a robust causal link can be established between said public nuisance and the operation of our premises. In the past, Environmental Health have defined nuisance as “audibility from the nearest noise-sensitive premises”. There is a recent example of case law which states that this is so “vague as to be

unenforceable". It also seems that SERO/06 was a report conducted from the public highway, and not in a noise-sensitive property.

Given that there are no quantitative assessments using measuring devices, we also feel it is reasonable to inquire what the baseline case for subjective assessment is. Essentially, this is a question about ambient noise levels. Is the general ambient noise level used to gauge nuisance one for a purely residential area without the presence of a bar, or an ambient noise level factoring in the presence of a bar? This is particularly relevant to SERO/06, in which it is mentioned that a bass beat is audible in the background.

There is also a question which has emerged in recent case law of the distribution of noise complaints across complainant properties. Are the noise complaints isolated to a number of properties adjacent to the bar, and where does the locus of the complaints extend to? We believe it is important these questions are answered because they determine whether or not this is a private or public nuisance issue. The strategy of issuing a Noise Abatement Notice by Environmental Health would indicate that thus far, at most, this is a case of isolated private nuisance. That is not to understate the gravity of the matter however, which is why we sought the services of an acoustic consultant.

During the mediation meeting, we requested that Mr Flannery send the redacted reports to us so we could establish a time-profile of issues and better determine which source of noise was deemed most problematic. The request was acknowledged but the documents were not provided. Despite not providing these reports, it seems Environmental Health were however able to issue a Noise Abatement Notice after the meeting.

We would also add that in none of the reports SERO/01 to SERO/06 does the ERO explicitly state that the noise witnessed is for a prolonged sustained period of a recurrent nature such that it would be detrimental to the enjoyment of one's property. While there are references to there being loud noise, there is no professional assessment of whether or not it would constitute nuisance. Combined with the absence of quantitative measurements, the question reduces to "how loud is loud?" and "does your subjective perception of loudness correlate with the evidential tests for nuisance?" Such debates possess little scientific rigour and allow too much credence to ambiguities. While this might not be deemed an issue at a review hearing, it will take on a greater importance in event that this reaches the Magistrates' Court.

In our opinion, this semantic game of qualifying subjective assessments could have been avoided had Environmental Health given enforceable noise guidelines, at least for alleged interior music and bass leakage.

During the mediation meeting, we noted that the only case where disturbances from our smoking area arise is when there are incidents of disorderly behaviour, often when offenders are refused entry to the bar. We believe our security supervisors have an excellent track record in diffusing and managing these tense situations, isolating offenders and removing them from the premises.

It can become difficult for our security supervisors to ask those who are not our patrons and those who have been refused entry to move on outside the boundary of our property, as we have no authority on the public pavement and highway. This has frequently been brought up by said groups as precisely why we cannot ask them to disperse. Our door supervisors also possess no immediate bargaining power to convince these groups of people to move, as entering our premises is not something they would like. Furthermore, there is also the uncertainty of whether or not insurance would cover interventions to induce individuals to disperse on the public highway and pavement off the boundary of our property. Despite this, we asked that our security supervisors do their best to convince these groups of people to disperse anyway.

In particular, when the events finish at 03:00am, we remunerate them for an extra half hour to ensure that the event is suitably concluded so that those who are leaving are promptly asked to disperse. Generally security supervisors will have concluded the event by 03:15am. We have never hosted events that finish at 4:00am, which is technically what our licence grants us the privilege of doing.

We stand by our position that while we can create as many constraints as possible within the licensing environment to lead people towards particular patterns of behaviour that are acceptable to us and our community; we emphasise that our locus of regulation ends at the ability to directly control a particular individual's decision to engage in noisy or otherwise unacceptable behaviour from time to time.

Mediation meeting

While this may not be directly relevant to the promotion of the licensing objectives, we believe there is an aspect of the mediation meeting that needs to see the light of day.

During the meeting, when discussing the history of the Bank Bar with respect to noise, Mr Flannery produced a Noise Abatement Notice signed by Wai Tse on 4th November 2015, relating to an incident on the 31st October 2015. He claimed that this had been served on us, in front of the entire panel of attendees at the mediation meeting, namely Ms Neill, Ms Critcher, Mr Stephens and Mr Atkins.

We did not recognise this document which Mr Flannery served on us. Fortunately, we had brought our entire history of formal correspondence with Environmental Health to the meeting. We laid our correspondence out and the Noise Abatement Notice we received was on the 12th November 2015, signed by Mr Flannery, but without a date listed on the notice. We note that statutory notices are invalid when they are not dated as the subsequent 21-day deadline for appeal becomes ambiguous.

When we showed Mr Flannery the notice we had originally received and challenged the veracity of the document he produced, he seemed hesitant and unable to answer. Further challenges led to him proceeding to destroy said document in front of us. We remain unaware as to whether this document was withdrawn or whether it was never deemed to be issued in the first place. We were also prepared to overlook this as an administrative error.

However, we believe that the situation was clear enough to amount to the knowing falsification of a statutory notice. Statutory notices are not to be treated lightly, as they render us liable to prosecution. That this occurred in a mediation meeting that is supposed to espouse a spirit of co-operation between licence holder and Responsible Authority was discouraging. We believe that this action further casts a grave shadow on the credibility of all subsequent actions the Environmental Health department took in attempting to resolve matters to do with our premises.

Such actions sadly reflect a relationship between ourselves which can be described as one of co-operation in strictly nominal terms only. On this, we note that a member of Environmental Health has never once visited our premises, made themselves known, taken measurements, nor given any advice on what in their professional view would constitute an acceptable precedent for the future, all whilst we are operating. There are no legal obligations to do so, but we have dealt with many local authorities who operate such practices, largely because they are looking to seek genuine long-term solutions.

We can only conclude that Environmental Health do not possess the technical expertise nor perhaps the resources to provide a minimum standard of service that can discharge their statutory duties effectively. Consequently they become unable appropriately balance the

competing interests of local business and residents, without unduly prejudicing one side over another.

Recommended conditions

"A maximum of 15 patrons to use the smoking area. No inebriated patrons to be permitted within the smoking area."

This is a condition we are prepared to accept.

"A noise limiter to be installed and set at a level to be agreed with the local authority."

This is a condition we are prepared to accept. We remark that our repeated requests from Environmental Health for quantitative guidelines as to the maximum volume limit of the sound system is equivalent to this measure.

It would seem that Environmental Health is prepared to take responsibility for issuing quantitative guidelines on volume only when combined with particularly punitive measures on opening hours. The risk of complaints from effectively ceasing the bar operations might decrease, but in practice, this means no genuine responsibility for adjudicating the appropriate volume level that balances our interests and those of residents is really taken on by Environmental Health in the first place. In combination with concerns over technical expertise and resources expressed earlier, we believe this amounts to the acknowledgement that Environmental Health have no confidence in their own ability to provide an appropriate, optimal music level that can be agreed upon, save in a severely limited case where operating hours are restricted to such an extent that the criterion is not even given a chance to be tested.

Herein lies some complexities in the interaction between licence-holder and Responsible Authority: that genuine Authority is not merely a unidirectional compulsion, but rather one that can only emerge from the reciprocal recognition that both licence holder and authority are responsible and accountable to one another. We ask that you determine the outcome of this review bearing this in mind.

"To minimise the impact of the noise from the premises and from patrons leaving the premises the current hours to be reduced. Mr Lim has discussed the premises as a bar with music. To reflect this, live and recorded music to cease at 22:00, alcohol sales to cease at 22:30hrs and the premises to close 30 minutes later – 23:00hrs, which should reflect the planning opening hours."

We do not believe reducing the opening hours to such a degree is appropriate for a number of reasons.

- 1) We believe operating under a noise limiter with an Environmental Health approved volume level and modified smoking area conditions by themselves would be sufficient.
- 2) It is not a proportionate response.
- 3) Commercially it would be detrimental to our business and be equivalent to revoking our licence. Residents pay council tax, businesses pay rates. Both interest groups have an equal stake to being members of the community, an equal stake which deserves to be appropriately embodied in a proportionate approach on how competing interests are managed. The practical equivalent of revoking our licence would not in our opinion appropriately embody that equal stake.
- 4) We are unaware of any commonly accepted definitions of bars with music as establishments that shut at 11pm. Perhaps it could be suggested where these definitions can be found?
- 5) While terminal hour conditions lie in an area of overlap between planning and licensing legislation, considerations from planning legislation should not be brought into matters

related to licensing. Licensing considerations should be made in context of the promotion of the four licensing objectives, not in context of land use. This position is very well established both in revised section 182 guidance for the Licensing Act 2003, and in the case of *R (on the application of Blackwood) v Birmingham Magistrates Court and others* [2006] EWHC 1800 (Admin). Both sources refer to the separation of statutory regimes, as well as the point that giving undue attention to irrelevant considerations of land use runs the risk in general of making licensing committees open to accusations of improper purpose.

- 6) Even if it were decided that the planning opening hours were to be a consideration in a licence review, it has not been conclusively established that the A3 planning opening hour restriction of 2300hrs can really be taken to be binding on our A4 activities, especially because it has not been enforced for more than 10 years. Using the licensing review powers as a means of making up for lax planning enforcement is not appropriate in our opinion. Furthermore, the Bank Bar has been trading past 2300hrs since its inception in June 2007. An LDC was supplied to reflect this, but was refused. Given that this is an ongoing issue with the justified, open option of an appeal, it would be inappropriate in our opinion to amend our existing terminal hour condition, especially given that the motivations of harmonising it with planning opening hours have been so clearly stated.

We recommend that this condition be deleted.

List of documents by document reference:-

DOC1A Photographic evidence of 2 intruders who had broken in through subsidiary exit, dated 21st April 2017

DOC1B Photographic evidence of damaged air-conditioning units

DOC2 – Incident book extract from 11th March to 29th April 2017

DOC2A – Email correspondence between Bank Bar and PC Ed Pegg

DOC3- Incident book extract from 28th January 2017

DOC4- Incident book extract from 13th May 2017

DOC5 – Photos from “Bank Bar Action Group” submitted by a member of the public

DOC6 – Screenshot of the Bank Bar Facebook page

DOC6A – Screenshot of the Bank Bar Facebook page

DOC7 – pp20-21 “Shepway District Council Licensing Policy Statement 2016”

DOC8 – “Bank Bar Operational Plan”

DOC9 – Letter accompanying premises licence application, dated 22nd September 2016

DOC10 – Letter regarding technical measurements – 20th March 2017

DOC11 – pp23-33 “Chapter 3 Structuring the Service, Neighbourhood Noise Policies and Management Guidance for Local Authorities, September 2006, Department for Environment Food and Rural Affairs, Chartered Institute of Environmental Health”

DOC12 – Technical advice for consultants on sound insulation and noise control criteria for entertainment licensed premises

DOC13 – Noise from Pubs and Clubs Report produced for DEFRA

DOC 14 – Able Acoustics Acoustic Review dated September 2017 produced by Mr Crofton-Martin

DOC15 – Briefing document for door supervisors, last updated 31st March 2017

Normal

Main Stream

21-04-2017 Fr 23:35:57 (S)

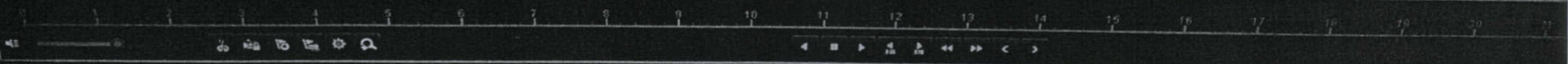
Doc 1

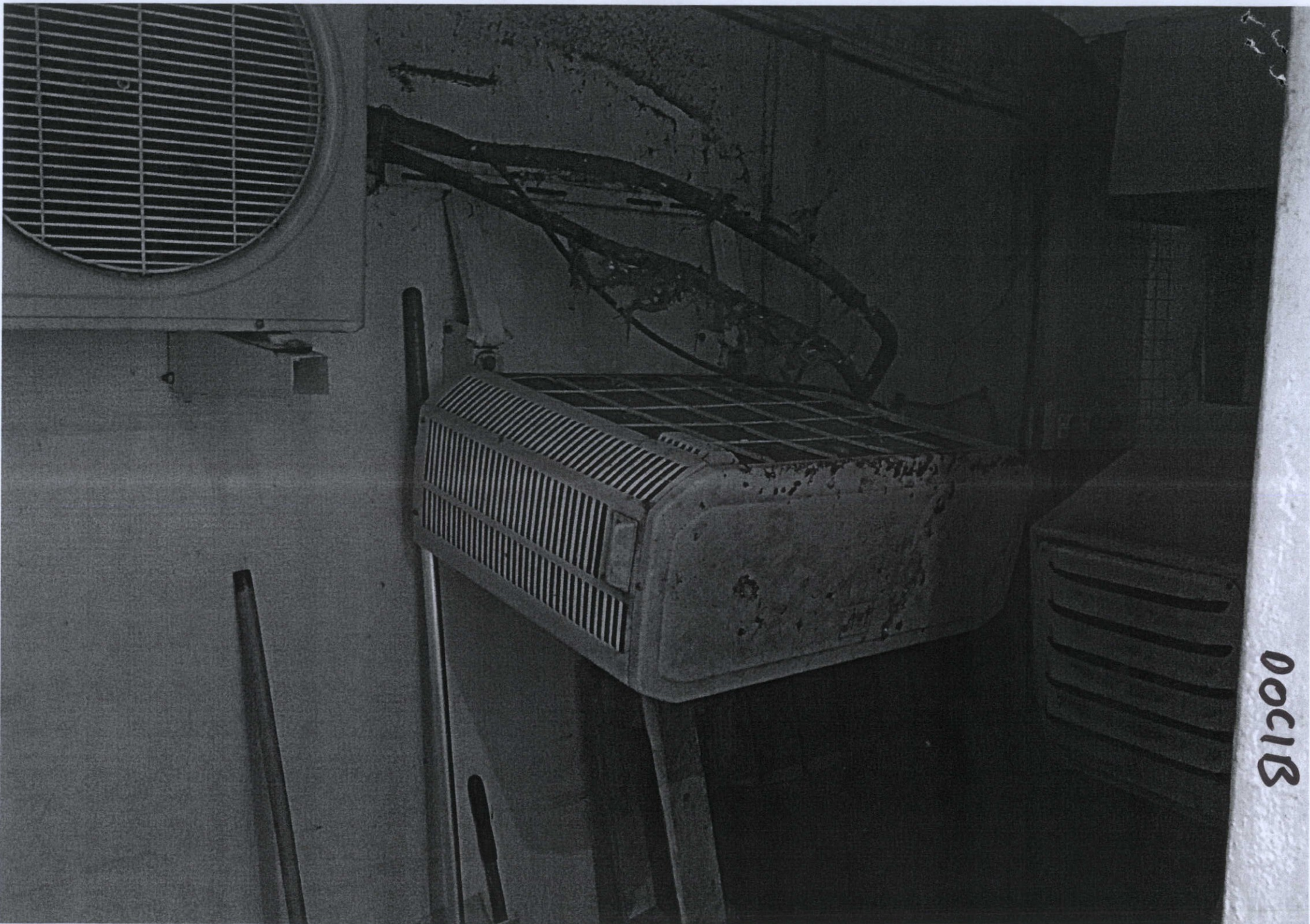


Camera 03

07-04-2017 18:05:56 - 21-04-2017 23:53:22

Doc 1
15
23
30





00C1B

DOC2

Saturday 11-3-17

ON Site Bank Bar 21:00 Lez. NTR.

FRI 31.3.17 GROUP OFF FEMALES OUTSIDE AWAY FROM THE BAR FIGHTING, WAS SPLIT UP BY MYSELF NICK AND STEVE
1 FEMALE WAS ASKED NICKY TO GO HOME AS TO DRUNK, KEPT FALLING OVER, SHE LEFT IN TAXI. APART FROM THIS GOOD NIGHT. NICK

FRI 7.4.17 100 PROBLEMS TOTAL IN 116. NICK

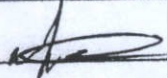
Saturday 8-4-17

ON Site Bank Bar 21:00 Lez NTR.

FRI 21.4.17 REFUSED 1 MALE AS SEEN BY MYSELF IN FALKESTONE ACADEMY SCHOOL UNIFORM, MALE WALKED OFF ONLY TO ENTER BY TOILET DOOR JUMPED OVER WALL WITH ANOTHER MALE, BUT ON DOING SO BROKE THE AIR CON WHICH IS FIXED TO THE WALL, ON WHICH NOW IS LEANING OVER, CCTV FOOTAGE OFF MALES TAKEN BY CCTV AT 23.31.

28.4.17 21.55 FEMALE TRIED TO GET IN WITH SOMEONE ELSE'S ID THE FEMALE WAS ONLY 16, SHE LEFT AFTER 10 MIN AFTER STANDING OUTSIDE. 22.17 FEMALE KNOWN CALLED BECKY GIVING MOUTH TO MYSELF OUTSIDE. 01.30 ISH TWO MALE FIGHTING OUTSIDE. REFUSED IT VERY QUICK MALE LEFT.

29.4.17 FEMALE NAMED BECKY TRIED TO ENTER REFUSED AS MOUTHED OFF TO MYSELF HER MALE FRIEND THREATENED TO SMASH ME IN BANNED BOTH OFF THEM JOHN HAS BEEN TOLD WILL TELL WILL WHEN RETURNS ALEX HAS BEEN INFORMED AS WELL



00C2A ~~00C2~~



~~██████████~~ <bankbarfolkestone@gmail.com>

Crime Report Number ZY/35564/17

3 messages

IMU Public Kent <imu.public@kent.pnn.police.uk>
To: "bankbarfolkestone@gmail.com" <bankbarfolkestone@gmail.com>

Wed, Aug 2, 2017 at 3:12 PM

With reference to the report you made today, please find the reference details below:

Crime report number: ZY/35564/17

Offence: Racially aggravated Section 4a Public Order Act

Report status: Allocated for review

As discussed, if you could please save imagery/video of the incident from your CCTV and reply to this email with any images you have that show the suspects face.

For crime prevention advice please visit www.kent.police.uk

Kind regards

Ed Pegg 59510

Investigation Management Unit Investigator



Investigation Management Unit | Kent Police Headquarters | Sutton Road | Maidstone | ME15 9BZ

This email and any other accompanying document(s) contain information from Kent Police and/or Essex Police, which is confidential or privileged. The information is intended to be for the exclusive use of the individual(s) or bodies to whom it is addressed. The content, including any subsequent replies, could be disclosable if relating to a criminal investigation or civil proceedings. If you are not the intended recipient, be aware that any disclosure, copying, distribution or other use of the contents of this information is prohibited. If you have received this email in error, please notify us immediately by contacting the sender or telephoning Kent Police on 01622 690690 or Essex Police on 01245 491491, as appropriate.

~~██████████~~ <bankbarfolkestone@gmail.com>
To: IMU Public Kent <imu.public@kent.pnn.police.uk>

Sat, Aug 5, 2017 at 12:45 PM

Hi,

Here is the picture taken from the CCTV. Unfortunately I do not have a large enough HDD on-site to export the video footage to, but there were 3 security supervisors who were on site who can give witness statements if required.

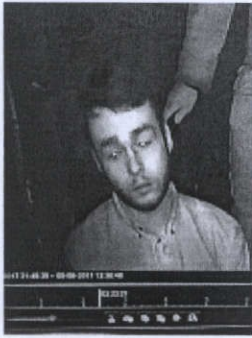
Regards,

~~██████████~~



Virus-free. www.avg.com

[Quoted text hidden]



IMG_0581[1].JPG
2017K

IMU Public Kent <imu.public@kent.pnn.police.uk>
To: [REDACTED] <bankbarfolkestone@gmail.com>

Mon, Aug 7, 2017 at 6:56 PM

Good Evening,

The photo has been added to the report, however I note that you are not wanting to support any police action at this time so statements will not be required.

Should you change your mind please call 101 and the officer in charge can be contacted.

Many thanks

Ally Ockenden-Kemp 57669

Investigation Management Unit Investigator



Investigation Management Unit | Kent Police Headquarters | Sutton Road | Maidstone | ME15 9BZ

From: [REDACTED] [mailto:bankbarfolkestone@gmail.com]
Sent: 05 August 2017 12:45
To: IMU Public Kent
Subject: Re: Crime Report Number ZY/35564/17

[Quoted text hidden]

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

This email and any other accompanying document(s) contain information from Kent Police and/or Essex Police, which is confidential or privileged. The information is intended to be for the exclusive use of the individual(s) or bodies to whom it is addressed. The content, including any subsequent replies, could be disclosable if relating to a criminal investigation or civil proceedings. If you are not the intended recipient, be aware that any disclosure, copying, distribution or other use of the contents of this information is prohibited. If you have received this email in error, please notify us immediately by contacting the sender or telephoning Kent Police on 01622 690690 or Essex Police on 01245 491491, as appropriate.

✉

✉

00C3

~~00C4~~

SAT 28/01/17 — NAKED LUNCH

2100 — JON ON SITE. NTR.

2350 — ASKED IC1 M TO LEAV FRONT AREA AS NO

ID HE REFUSED ASKED HIM AGAIN HE SAID NO DO

SOMETHING ABOUT IT KARL (OFF DUTY) AND MYSELF

MOVED TOWARDS MALE. HE MOVED TOWARDS US

AGGRESSIVELY KARL RESTRAINED HIM AS I WAS

RESTRAINING HIS FRIEND AN IC3 MALE THAT

TRIED TO ATTACK KARL. WE GOT THEM TO

STREET LEVEL AND OFF PROPERTY WHEN ANOTHER

IC1 MALE ATTACKED KARL. I WAS HOLDING

BACK APPROX 3 MALES. POLICE ON SITE AT APPROX

0005 IC1 MALE ARRESTED AWAY FROM SCENE.

0135 — IC1 MALE EJECTED FIGHT. _____

0205 — IC3 MALE EJECTED FIGHT. _____

0330 — JON OFF SITE. _____

~~00C4~~

DOCL4

SAT 13.5.17

DAVE ON DUTY 21.00 03.15

NICK FRANKS ON DUTY 23.00 . 03.15

SAT 13.5.17

3 YOUTHS EJECTED FROM ENTERIN W VIA GATES 1.15

22.50 ASKED A YOUNG MARE TO LEAVE AS UNDER AGE

MALE LEFT NO QUESTIONS. AT 2.15 CONFLICT WITH TWO

WOMEN DELT WITH AND BOTH WENT THERE OWN WAYS

NICK

Bank Bar Action Group

Closed group

Discussion

Members

Events

Photos

Search this group

Shortcuts

Bank Bar Action Group

chic home accessories 3

Cars for sale swap ... 20+

Dover for Disgruntl... 20+

Name & Shame Bad ... 3

For sale/swap/free ... 20+

Shepway Watch!!! 20+

Carys

Motocross bikes, pi... 20+

Hawkinge Selling &... 20+

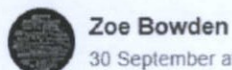
Cars 4 Sale In Kent... 20+

Transit City 20+

See more

Suggest Tags

RECENT ACTIVITY



Zoe Bowden

30 September at 22:35

I have heard that noise is bad already, please phone if affected. The council will only record if 3 or more people ring in. Vital that we do. At the moment the there are no complaints registered against them for 3 months as there have not been 3 more people calling on one night! Please call the number then email or DM to say you have. That we we can check the council's figures.

01303 221888

Like Comment

Seen by 10



Write a comment...



OLDER



Zoe Bowden

30 September at 00:42 · Kent

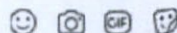
Please ring in if affected tonight it is very important 3 complaints already. 01303 221888.

Like Comment

Seen by 11



Write a comment...



SUGGESTED MEMBERS

Hide



Maz Graham

Add Member



Sonny Gee

Add Member



Amy Lawrence

Add Member

See More

DESCRIPTION

Add a description

Tell people what this group is about.

CREATE NEW GROUPS

Groups make it easier than ever to share with friends, family and teammates.

Create Group

RECENT GROUP PHOTOS

See all



Suggested Groups

See All



XX BLAST FROM THE PAST XX
19 friends · 3,686 members

+ Join

- Mar
- Son
- Mak
- Jac
- Ros
- Car
- Kay
- Tim
- Jam
- Gar
- Bet
- Pete
- Nick
- Jam
- an
- Ge
- MORE CON
- Aar

Bank Bar Action Group

Closed group

Discussion

Members

Events

Photos

Search this group

Shortcuts

- Bank Bar Action Group
- chic home accessories 3
- Cars for sale swap ... 20+
- Dover for Disgruntl... 20+
- Name & Shame Bad ... 3
- For sale/swap/free ... 20+
- Shepway Watch!!! 20+
- Carys
- Motocross bikes, pi... 20+
- Hawkinge Selling &... 20+
- Cars 4 Sale In Kent... 20+
- Transit City 20+
- See more

Zoe Bowden
13 May

Hi All If I email you I will be sending something soon. I have had a call from Environmental Health this week there is progress. However there are actions we need to take. If I do not email you and you would like to know please PM me on here. Thanks

Like Comment

1

Seen by 13

Write a comment...

Zoe Bowden
6 May · Folkestone

Just rung the council and been told that somebody else has as well! Great news two complaints on one night. Keep the pressure up if you are being disturbed ring 01303 221888.

Like Comment

Seen by 14

Write a comment...

Zoe Bowden
29 April · Folkestone

Busy tonight don't forget to call if the noise affects you.

Like Comment

Seen by 14

ADD MEMBERS

+ Enter name or email address...

MEMBERS

20 members



SUGGESTED MEMBERS

Hide

- Maz Graham [Add Member](#)
- Sonny Gee [Add Member](#)
- Amy Lawrence [Add Member](#)

See More

DESCRIPTION

Add a description

Tell people what this group is about.

CREATE NEW GROUPS

Groups make it easier than ever to share with friends, family and teammates.

[Create Group](#)

RECENT GROUP PHOTOS

See all



Suggested Groups

See All



- Mar
 - Son
 - Mah
 - Jac
 - Ros
 - Car
 - Kay
 - Tim
 - Jarr
 - Gar
 - Bett
 - Petr
 - Nich
 - Jarr
 - Dan
 - Geo
 - MORE CON
 - Aar
- Q Search

Bank Bar Action Group

Closed group

Discussion

Members

Events

Photos

Search this group

Shortcuts

Bank Bar Action Group

chic home accessories 3

Cars for sale swap ... 20+

Dover for Disgruntl... 20+

Name & Shame Bad ... 3

For sale/swap/free ... 20+

Shepway Watch!!! 20+

Carys

Motocross bikes, pi... 20+

Hawkinge Selling &... 20+

Cars 4 Sale In Kent... 20+

Transit City 20+

See more

Like · Reply · 12 March at 11:33
Write a comment...

Zoe Bowden · 5 March · Folkestone

Busy outside tonight don't forget to ring if you feel noise is an issue.

Like Comment

1 · Seen by everyone

Write a comment...

Zoe Bowden · 3 March · Folkestone

If you are being disturbed tonight don't forget to call 01303 221888 and report it. It's really important that the noise is witnessed in people's homes. Also any crime or disturbance ring 999 or 101. Planning has not yet been granted the more complaints logged the more reason not to grant.

Like Comment

Seen by 18

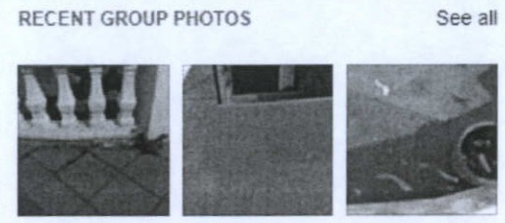
Write a comment...

Zoe Bowden · 16 February

Statutory consultation is over, I have just rung the council and been told this is not a strict time deadline! As this is a contentious issue it may take longer! Those of you I have been in email contact with check your emails for further

DESCRIPTION Add a description
Tell people what this group is about.

CREATE NEW GROUPS
Groups make it easier than ever to share with friends, family and teammates. **Create Group**



Suggested Groups See All

XX BLAST FROM THE PAST XX
19 friends · 3,686 members **+ Join**

Folkestone and Surrounding Areas FREEBIES--WANTED... **+ Join**

- Julie
- Son
- Chik
- Tim
- Mak
- Jack
- Ros
- Car
- Tim
- Jam
- Paul
- Bell
- Petr
- Nick
- Jam
- Dan
- MORE CON
- Aar

Bank Bar Action Group

Closed group

Discussion

Members

Events

Photos

Search this group

Shortcuts

- Bank Bar Action Group
- chic home accessories 3
- Cars for sale swap ... 20+
- Dover for Disgruntl... 20+
- Name & Shame Bad ... 3
- For sale/swap/free ... 20+
- Shepway Watch!!! 20+
- Carys
- Motocross bikes, pi... 20+
- Hawkinge Selling &... 20+
- Cars 4 Sale In Kent... 20+
- Transit City 20+
- See more



Jane Rooke

11 February

Is there any news from the Council on a date for the meeting? I have objected but not heard any more from them.

Like Comment

Seen by 18



Zoe Bowden I spoke to the officer in charge there will only be a meeting if he recommended the planning permission is given if he says no, no meeting. Date decision needs to be announced by is 14th February.

Like Reply · 11 February at 13:53



Write a comment...



Jane Rooke

11 February

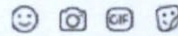
Is there any news from the Council on a date for the meeting? I have objected but not heard any more from them.

Like Comment

Seen by 17



Write a comment...



Sarah Tinson

2 February · Great Chart

Just so your aware. There is an event on tomorrow evening at the bank bar.

Like Comment

ADD MEMBERS

+ Enter name or email address...

MEMBERS

20 members



SUGGESTED MEMBERS

Hide



Maz Graham

Add Member



Sonny Gee

Add Member



Amy Lawrence

Add Member

See More

DESCRIPTION

Add a description

Tell people what this group is about.

CREATE NEW GROUPS

Groups make it easier than ever to share with friends, family and teammates.

Create Group

RECENT GROUP PHOTOS

See all

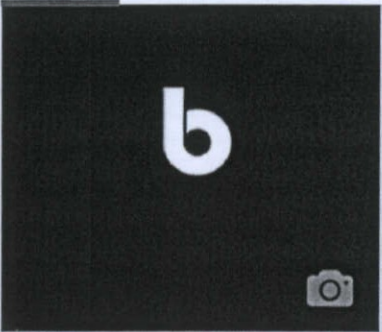


Suggested Groups

See All



- Hay
 - Julie
 - Son
 - Chik
 - Tim
 - Mak
 - Jack
 - Ros
 - Car
 - Tim
 - Jam
 - Pau
 - Bett
 - Pete
 - Nick
 - Jam
 - MORE CON'
 - Aar
- Search



- Bank Bar
- @only1bankbar
- Home
- About
- Events
- Posts
- Reviews
- Community
- Photos
- Videos
- Promote

Like Follow Share ...

This is the after-movie from the @yourhouseormine October party here at Bank Bar. On Saturday March 3rd we welcome YHOM back to Bank Bar. Underground house and techno being served up from 9pm-3am. See our Facebook event page via the link below for more details: <https://www.facebook.com/events/263624850838893??ti=ia>



Send Message

About See All



2 Castle Hill Avenue
 CT20 2QS Folkestone, Kent
 Get Directions

07930 903690

Typically replies within an hour
 Send message

Add website

Promote Website

Bar

Price range £

Opens tomorrow
Closed now

Suggest Edits

People Also Like



Chat (Off)

0006

Bank Bar
@only1bankbar
Home
About
Events
Posts
Reviews
Community
Photos
Videos

Like Follow Share ...

Send Message

Price range £
Specialties Serves drinks
Services Takes bookings
Walk-ins welcome
Good for groups or parties
Catering
Outdoor seating

system, perfect for intimate parties. we have a particular focus on electronic music, and host a variety of dance music events each weekend.

+ Finish your story to tell people more about your business.

TEAM MEMBERS

These people manage the Bank Bar Page and have chosen to have the Page appear on their profile and their name and profile picture shown on the Page.

Add yourself as a team member

Edit Start date

Edit business types



ADDITIONAL CONTACT DETAILS

bankbarfolkestone@gmail.com

+ Enter website

Edit Other Accounts

MORE INFO

About

An intimate, 150 capacity basement music venue built on a

Chat (Off)

00064

result in a relevant representation being made, leading to the cost and delay of a hearing before a licensing sub-committee.

The steps volunteered in the operating schedule will become conditions of the licence or certificate, and therefore applicants should consider carefully the steps appropriate for the promotion of the four licensing objectives at their particular premises.

The licensing authority will work in partnership with local Pubwatch initiatives in supporting licence holders to actively prevent crime and disorder and to form strategies to reduce current levels by meeting as necessary with members of the initiative. The strategies seek to address matters such as under-age sales, problems associated with drunken individuals, use of illegal drugs, violent and anti-social behaviour.

Public Safety

The public safety objective is concerned with the physical safety of the people, including any performers appearing at the premises, attending licensable activities at the relevant premises.

The licensing authority is committed to ensuring public safety across the District by working in close partnership, in particular with Kent Police, Kent Fire and Rescue Service, licensees, and with any other relevant bodies.

Best Practice in Public Safety

The licensing authority strongly encourages the implementation of best practice in licensed premises in the District in order to promote the public safety objective. Types of premises vary throughout the District, as do the types of licensable activities carried on at those premises, and therefore the steps appropriate to promote this objective will vary by premises.

When preparing their operating schedules, applicants are reminded that it is a requirement of legislation that any licensed premises carry out a fire risk assessment and to record the significant findings in writing (Regulatory Reform (Fire Safety) Order 2006 Article 9 paragraph 6).

When preparing their operating schedules, risk assessments of the premises should make reference to the following items of best practice:-

- Occupancy Limits – The authority will not generally impose conditions as to occupancy levels where these are adequately addressed by other controls but may do so in any other case where relevant representations are made. Capacities should be addressed in the fire risk assessment;
- Fire Safety – The fire risk assessment completed in relation to the use of the premises, should assist applicants in satisfying Kent Fire and Rescue Authority that the public safety objective will be met;
- Levels of door supervision adequate to control access to and egress from premises in order to ensure the public safety;

- Training for current and future staff in matters relating to public safety, where not already required by other legislation;
- Prevention of injury – Where there is evidence of a current or past problem in relation to particular premises or a particular locality, or in all circumstances it is considered likely that such a problem might occur, and/or premises are to be used primarily for the sale or supply and consumption of alcohol on premises (particularly if those premises have little seating for patrons relative to their size/capacity). Applicants should give consideration to a policy of using plastic, polycarbonate or toughened glass, and a policy not to pass glass bottles over the bar, either throughout the period of operation or at certain times or on certain occasions;
- Measures to reduce the impact of noise both in terms of staff safety and protection of hearing of the public and staff at the premises, where such measures are not already required by other legislation;
- Measures to ensure that litter does not cause a nuisance or a health hazard to the public or a fire hazard to the vicinity, as generated by the activity at or near to the premises.

Applicants are expected to include the above items of best practice in their operating schedules, where relevant to the premises. Where they elect not to do so, they are advised to include information explaining the omission. This might be because a risk assessment has shown that the step is unnecessary or because the item is already the subject of another consent, e.g. a planning permission or statutory obligation. If such information is not included, it may result in a relevant representation being made, leading to the cost and delay of a hearing before a licensing sub-committee.

The steps volunteered in the operating schedule will become conditions of the licence or certificate, and therefore applicants should consider carefully the steps appropriate for the promotion of the four licensing objectives at their particular premises.

Prevention of Public Nuisance

In considering the promotion of this licensing objective, the licensing authority will focus on impacts of the licensable activities at the specific premises on persons living and working (including doing business) in the vicinity that are disproportionate or unreasonable.

The licensing authority is likely to be concerned with noise nuisance, light pollution, noxious smells and litter.

Under the Act, "public nuisance" retains its broad common law meaning. The prevention of public nuisance could therefore include low-level nuisance perhaps affecting a person living locally as well as major disturbance affecting the whole community. It may also include, in appropriate circumstances, the reduction of the living and working amenity and environment of any other person.

-BANK BAR-

Operational Plan

1. Key Licensing Objectives
2. Queue and Front Door
3. Search Routines and ID Checks
4. Drugs Policy
5. Security Team
6. First-Aid
7. Bar Team
8. CCTV
9. Cloakroom
10. Lost and Found Property
11. Noise Management
12. Dispersal
13. Management – Opening and Closing Duties
14. Evacuation Procedures and Fire
14. Fire
15. Training
16. Risk Assessment

1st September 2016

1. Key Licensing Objectives

- Prevention of crime and disorder
- Protection of public safety
- Prevention of nuisance
- Protection of children from harm

The practices documented below have been operational since December 2015. This document was drafted on 1st September 2016.

2. Queue and Front Door

Bank Bar security team will be stationed at front door for the following checks:

- ID check – Only over 18s are allowed on the premises.
- Looking for people who are overly intoxicated, or under the influence of drugs making them unsuitable to enter.
- ID checks – Those with Fake IDs are not allowed to enter the venue, suspected fake ID will be confiscated. If there is any doubt, then patron will be refused entry. Accepted proof of age are passports and driving licences.
- Bag search – Every bag is searched, with the consent of the owner.
- Pat down searches – A random search policy is in operation. Condition of entry will be: that patrons will consent that they may be selected for searching *and* if selected they will consent to being searched. Signage indicating this is already maintained.
- Monitoring numbers – Handheld clicker is used, door supervisors collectively monitor and are responsible for total numbers in the venue (number entered – number left).
- Capacity limit - They ensure the total number inside the venue does not exceed 120 people. The limits calculated with the Fire Authority are between 145 and 176 depending on whether seating is used in the venue. However, for reasons of general comfort and safety, we have specified 120 as a maximum in our risk assessment.

3. Search Routines and ID Checks

Every bag is searched at the entrance to the venue, provided consent of the patron has been given.

If illegal weaponry or illegal substances are found, they are confiscated and the person is refused entry. The incident is logged into the venue incident book and we will contact Kent Police if necessary.

In line with Kent Police guidelines, self-seal evidence bags are used to log and collect anything confiscated during the search. Time, description and details of customer are logged into the venue incident book with another member of staff corroborating. If there is a requirement for a Police Officer to attend it will be handed to them. If they are unable to attend it will be held in a locked safe or destroyed at the end of the night.

Although every bag is searched, we operate a random search policy – pat down search and pocket check.

Our search policy is displayed on a sign before entering the venue.

Door supervisors are briefed on the importance of customer consent before and during the search routine, as they have no statutory legal powers to search customers. They are also briefed on discretion with regards to citizens' arrest, especially in the case of small quantity possession offences.

Conflict management and good communication skills are emphasised. In the event that customers become aggressive or violent, the law on reasonable force applies.

To support door supervisors, we have liaised with Kent Police and we were advised that it was good practice to have a CCTV camera positioned by the entrance to the venue. It was also advised that searches be carried out in front of this camera. We are looking into the viability of including an audio feed on this camera also.

4. Drugs Policy

We have a drugs policy that is designed in line with guidance from Kent Police. It is a zero tolerance policy that focuses on the need to liaise with Kent Police to take effective measures in preventing the supply and usage of illegal substances in and around the premises.

Whilst all reasonable efforts will be made to ensure the preventative measures employed are effective, we believe that it is prudent, responsible and consistent with a reasonable duty of care towards our patrons to assume that consumption of illegal substances cannot be fully eliminated.

Therefore in addition to the preventative measures employed, we believe that it is of crucial importance for staff to be able to deal with patrons who are in danger of hurting themselves or others as a result of having consumed illegal substances. This is further outlined under section 6, "first-aid".

5. Security Team

All door supervisors used are registered with the SIA.

The number of door supervisors used is determined by risk assessments, carried out on a weekly basis by both management and the head of security.

A sign-in register is maintained where door supervisor details, notably SIA Licence number, are recorded.

All door supervisors will have their SIA badges prominently shown.

In the event that SIA door supervisors have not been formally issued with SIA badges but are SIA registered, their eligibility to work will be checked against the SIA database by the head of security.

All door supervisors are trained on reporting procedures. There is an incident book in which ejections, refusals, disorderly conduct, illegal weapons/drugs confiscations, etc. are logged.

We take training on reporting procedures very seriously – an audit trail is able to not only aid the relevant authorities in their investigations, but also serves as part of our strategy to refuse entry to those who have a known history of causing trouble on our premises.

Radio usage for events is, at the time of writing, decided on the basis of weekly risk assessments. We are looking to using radios on a permanent basis.

On the use of FAPAC, we are currently not subscribed to the service. The administrators of the service have made it known to us that they would be happy for us to trial it for a few months. We believe at this stage that it is not necessary, unless there is a significant change in circumstance.

6. First-Aid

A first-aid box is located in the back office on-site. The head of security is first-aid trained but his certificate requires renewal. We are looking for him to renew his certificate and to train an additional member staff as soon as is reasonably practicable.

All staff are trained to be collectively vigilant and look out for signs of people who are overly intoxicated, under the influence of illegal substances, or who seem vulnerable.

Free drinking water is available at the end of the bar, and can always be requested for from members of the bar team.

There is a chill-out area at the rear that is cooler and quieter than the rest of the venue.

7. Bar team

Bar team report to the manager.

By 22:30 drinks will no longer be served in glass, but in polycarbonate drinks containers. By 23:00, bar staff will make sure there is no glassware visible on the premises, including the outdoor areas if they have been left outside.

The bar team are trained in the following areas of concern:

- Spirit and alcohol dispensing
- Secondary ID checks – if in doubt the manager is consulted
- Intoxicated patrons not be served alcohol and security informed of this, logged into incident book. Bar team work with security team to uphold duty of care towards patrons
- Drinking water is fully available at all times
- Customers informed to the danger of drinks left unattended
- Vigilant for intoxicated patrons who may be in the need of medical attention, and suspicious behaviour which in their judgement requires attention of management and security

- Keep all areas of the venue clean, tidy, ensure spillages/breakages dealt with swiftly and efficiently
- Regular sweeps are carried out and unattended drinks are cleared away

8. CCTV

CCTV is used on the premises.

We are looking to undertake investment to further update the CCTV system so that it meets the minimum requirements of Kent Police. The position of the cameras will be fitted in liaison with Kent Police.

CCTV will record images which will be retained and stored. Recordings will be stored for 28 days.

CCTV will cover all exits, entrances, and public areas of the premises. CCTV will provide good quality images and be capable of visually confirming the nature of the crime committed. All CCTV cameras and recording equipment will be kept in good working order and inspected regularly. CCTV images which can be used to identify individuals are to be handed over to the Police where it is necessary for the prevention or detection of crime; for the prosecution or apprehension of offenders; or where disclosure is required by the law.

CCTV will have a suitable export method (USB) so that Police can make evidential copies of the data that they require.

All equipment will have constant date/time generation.

FAPAC membership is currently not deemed to be necessary at this stage. In the event that media from the CCTV system is required by FAPAC, it will be suitably handled and transmitted in observance of Data Protection laws.

In the event of system malfunction, the management will immediately notify the Licensing Authority and the Police Licensing Department. Details of the malfunction will be logged in the premises incident book. Arrangements for repair will be made and above authorities notified when it is again operational.

9. Cloakroom

We operate a cloakroom facility that can cater for patrons' bags and coats and its use is strongly encouraged.

A fee is charged for allowing them to leave these items with us. Patrons are issued with a ticket, and their initials are recorded. If patrons wish to collect their items they have to provide their ticket. If they cannot provide a ticket, they will have to wait until the end of the night to collect their items. If they do not wish to wait, then their details will be recorded at the bar and they will be contacted at the next available opportunity.

We urge patrons to remove all valuables from the coats and bags. While we provide a disclaimer limiting our liability, we go to great lengths to ensure all property left with us is secure.

10. Lost and Found Property

Generally, the bar team and security co-ordinate to implement best practice on lost and found property, as outlined in Kent Police guidance documents.

If patrons have lost items, their details will be recorded and they will be notified if anything is found.

If identification documents are found, and if they are not claimed, it will be returned to the issuing authority.

“Low” value items such as clothing, bags, empty wallets and keys are logged and retained for 28 days in a secure location. They are disposed of after this 28 day period.

“Valuable” items such as mobile phones, net books, cameras, and laptops which can retain personal information are to be kept in a secure location and handed over to Kent Police as soon as is reasonably practicable.

If anything suspicious is found it is handed to lost property and management informed if necessary.

11. Noise Management

We aim to find a reasonable balance between providing the most rewarding sonic experience for patrons and minimising impact on those who are in our vicinity. We believe close co-operation between ourselves, residents and Environmental Health will allow us to achieve this balance.

We have identified three sources of noise that might be construed as causing nuisance to those in our vicinity, and propose the following measures to reduce these sources of noise, many of which have been in operation since December 2015.

Exterior noise in the smoking area:

- Door supervisors enforce a limit on the number of patrons allowed in the smoking area after 2300 and use a one-in-one-out policy.
- Patrons will not be allowed outside with their drinks after 2300.
- Signage reminding patrons to be considerate and respectful to residents is maintained.

Interior noise leakage:

- Door supervisors are responsible for ensuring the doors are shut so that interior noise does not leak outside.
- Door supervisors routinely use an SPL meter and take a noise reading every half hour from 2200 onwards at the top of the stairs on the edge of the premises. Decibel readings are recorded in a log book which is available for inspection on request.
- Sound engineer has programmed a benchmark volume limit into the audio signal processor.

Low frequency noise:

- Sound engineer will conduct calibration test and filter out resonant frequencies in the audio signal processor

12. Dispersal

Lighting levels are increased near the end of the night to encourage patrons to begin dispersal.

Freephone local taxi service cards are provided at the bar.

We are in discussion with a number of local taxi companies on the viability of a partnership whereby taxis wait outside our premises at closing time. We believe that if taxis are immediately available as patrons are leaving, this will accelerate the time it takes for them to disperse from the vicinity of our premises.

13. Management – opening and closing duties

Management are responsible for the following prior to opening:

- Testing emergency lighting/interior lighting/external lighting is in working order by simulating power cut
- All fire exits/stairwells are clear and unobstructed
- All necessary signage is in place
- Cash floats issued
- Ensuring all staff and contractors who are present on the premises are aware of their responsibilities.
- Issuing radios, if deemed necessary

During closing:

- Work with door supervisors to ensure customers leave safely and quietly
- Check sound equipment and interior lighting is switched off
- Ensuring cash is arranged to be taken off the premises
- Accounting for bags and coats stored in the cloakroom
- Accounting for lost/found property
- Ensuring unclaimed lost property is stored in a secure location
- Debrief members of the team
- Ensuring compliance with reporting procedures (sign-in book, incident book, lost property log)
- Arranging for any illegal weapons/substances to be stored in a secure location unless Kent Police are called to collect

14. Evacuation Procedures and Fire

Please refer to our latest fire risk assessment, reviewed on 31st July 2016.

15. Training

All members of the bar and security team are briefed on their responsibilities under the Licensing Act 2003. In the event of any doubt, they are instructed to consult management.

To the best of our knowledge, we are compliant with all statutory regulations governing workplace health and safety for employees. Please refer to our health and safety risk assessments

We collectively strive to create a safe, friendly environment for members of staff and patrons with a zero tolerance policy on explicitly abusive behaviour. However, it is not beyond the realms of possibility that there will be instances of abusive behaviour occurring. We brief staff on conflict management so that when they inevitably encounter these situations, they are trained to resolve it in the best possible manner.

16. Risk Assessment

Please refer to our latest risk assessment document, reviewed on 1st July 2016. In addition, management and the security team conduct event-based weekly risk assessments, especially if external promoters are involved.

Our written risk assessment is reviewed annually, or when there are significant material changes to the function of the venue.

0009

Swee Leng Teong
26 Abbotts Road
Sutton
Surrey
SM3 9TA

Licensing Team
Shepway District Council
Civic Centre
Castle Hill Avenue
Folkestone
Kent
CT20 2QY

22nd September 2016

Dear Sir/Madam,

Under the Licensing Act 2003, I enclose a notice of application for a premises licence to be granted, an application for a new premises licence, a plan; and for the Licensing Team, the relevant fee.

It was calculated that the premises lies in rates banding B, with a corresponding fee of £190.

I also enclose the following supplementary documents:

- 1) Bank Bar operational plan
- 2) Fire risk assessment
- 3) Risk assessment

Please note that the operating schedule in Section M of the application for a premises licence was drafted mainly with respect to Shepway District Council's Licensing Policy 2011, but with some consideration given towards Shepway District Council Draft Licensing Policy 2016. We believe this to be a reasonable course of action because it allows us to be proactive in our approach to promoting the four licensing objectives and because at the time of writing, the latter document remains to be fully approved, to the best of our knowledge.

The Bank Bar operational procedures is an internal document that represents the working practices we have developed since November 2015. In addition to these working practices, it contains a number of measures we would look to implement in a timely manner if we were granted a workable premises licence.

In particular, the CCTV system and new Martin Audio sound system are costly investments whose purchase and installation cannot be undertaken without more information on how workable our premises licence will be.

We advise that the following sections be read together with the Bank Bar operational plan supplementary document. Each of the following sections contains a proposed deadline for when we will implement the measures. If there is a chance that it will not be met, we will inform you promptly.

Section 5 - Security team

Since the drafting of the operational plan, it has been decided that we will use radios on a permanent basis to ensure that members of the bar team and security team can more easily communicate.

Section 6 - First Aid

Our head of security is first-aid trained, but his certificate requires renewal. We are looking for him to renew his certificate and to have it such that a member of the bar team is also first-aid trained.

We aim to have this implemented by the end of the 28-day representation period.

Section 8 – CCTV

We have been issued with guidance on Kent Police minimum requirements for CCTV. These have been included in our operational procedures. We have not included it in our operating schedule on our application because we are in the process of due diligence checks on our proposed CCTV system.

This includes evaluating our system according to the latest guidance on compliance with the Data Protection Act issued by the Information Commissioner, the Surveillance Code of Practice; and other relevant statutory legislation, including but not limited to the Freedom of Information Act and the Human Rights Act. This is of particular importance to us because we propose using an audio feed on the camera positioned at the entrance to the venue and because two of the cameras will cover the public area outside our premises. In the first case, there exists some outstanding privacy concerns and in the second case we would like to make sure that proper procedures are in place so that an appointed member of the team is able to responsibly handle requests for information.

We will perform these due diligence checks over the course of the 28-day period for representation. We await more information on the nature of our premises licence, and in the meantime will finalise arrangements such that installation may begin immediately after the 28-day period.

Section 11 – Noise Management

We plan to invest in a new Martin Audio sound system for the venue which will provide a much clearer sound than what is currently installed. However this long-term capital investment requires significant expenditure that we are not prepared to undertake unless we have more information on how workable the new premises licence will be.

A proportion of the installation fee for the new sound system includes a calibration test by a sound engineer. We believe proper calibration of the new sound system will be sure to prevent any nuisance arising from low frequency noise or interior noise leakage.

Our sound engineer has recommended that ideally he would like to have some technical guidelines on the noise limit to program into the new sound system. We

believe this will allow for greater transparency and accountability and also give us an objective standard with which to comply.

However, we also appreciate that noise management is a complex issue. Our understanding of Environmental Health's latest position is that there should be no noise audible from the perimeter of our premises. If the final position is that objective technical guidelines cannot be given, then perhaps we might consider starting with a benchmark limit recommended by the sound engineer to achieve this, and then revise the limit if necessary.

We are already in communication with an accredited acoustic consultant. Over the course of the 28-day period for representation, we will examine the necessity and viability of their services. We await receipt of more information on the nature of our premises licence, but will make arrangements such that installation and calibration may begin immediately after the 28-day period.

Section 12 - Dispersal

We have approached a number of local taxi companies with a partnership arrangement whereby taxis will wait at the end of an event. We believe that if taxis are immediately available as patrons are leaving, this will accelerate the time it takes for them to disperse from the vicinity of our premises.

On condition that a commercially viable arrangement can be mutually agreed, that a suitable area for taxis to wait has been appraised, and that there are no objections; we aim to have this ready to implement at the end of the 28-day period for representation.

We look forward to hearing from you at the end of the 28-day consultation period. If you have any further queries in the meantime, please do not hesitate to contact us via email at bankbarfolkestone@gmail.com, or on 07825182577.

Yours faithfully,

Swee Leng Teong

0010

Swee Leng Teong
26 Abbotts Road
Sutton
Surrey
SM3 9TA

Environmental Health
Shepway District Council
Civic Centre
Castle Hill Avenue
Folkestone
Kent
CT20 2QY

Monday 20th March 2017

Dear Sir/Madam,

FAO: Peter Lea
Basement Business Premises
2 Castle Hill Avenue, Folkestone, Kent, CT20 2QT
Quantitative noise guidelines and acoustic survey

Further to correspondence submitted to Licensing with our premises licence application on 22nd September 2016 (copy enclosed), and in a meeting with Arthur Atkins on Friday 3rd March 2017, we write concerning technical guidelines on noise management at our premises. By technical guidelines, we mean any quantitative guidelines specified in generally accepted scientific measures.

We believe that technical guidelines will allow for greater transparency and accountability in the complex issue of noise management, and that it will give us an enforceable, objective standard for us to comply with. We also believe that it is for this reason that issuance of quantitative guidelines is recommended as a best practice measure for local authorities to adopt in many official guidance documents on noise management.

Our current understanding of Environmental Health's guidance on noise management with respect to our premises is that there should be no noise audible from the perimeter of our premises, and that we should conduct listening checks regularly. We can confirm that these measures continue to be adhered to, even though they lack the quantitative rigour we would like.

It has been made clear to us that Environmental Health are not in a position to issue technical guidelines on noise management on our premises, but that if we engage the services of a suitably accredited acoustic consultant to conduct a noise survey, then it would be suitably approved by Environmental Health.

As the services of an Institute of Acoustics accredited acoustic consultant is a significant expense, we expect written confirmation of the following before we will proceed:-

- i) That Environmental Health are not in a position to issue quantitative guidelines.
- ii) That as a consequence we will engage an appropriately accredited acoustic consultant to carry out an acoustic survey and impose our own quantitative guidelines

- iii) That on completion, these guidelines will be suitably approved by a member of Environmental Health.

Without a written confirmation of each of the points i) – iii), we will be unable to take on the financial risk of engaging an accredited acoustic consultant.

If you have any queries or comments please address these to us via email to bankbarfolkestone@gmail.com.

Yours faithfully,

Swee Leng Teong

3.0 Structuring the service

3.1 SERVICE STANDARDS

3.1.1 For a local authority to discharge its statutory duties, a minimum standard of service needs to be resourced, monitored, achieved and documented. Service standards relevant to those duties and local policy should be established at least for the following:

- response policy including target response times;
- provision of technically competent enforcement officers;
- administrative support at all stages of the complaint;
- complaint recording and priority criteria (screening);
- communications within the service and with noise sufferers and makers;
- links with other local authority service departments;
- liaison with police and other external agencies;
- health and safety of officers;
- maintenance and calibration of measurement and recording instruments;
- individual case and overall service evaluation; and
- agency arrangements with other authorities.

The standards must provide for specific and measurable outputs wherever appropriate.

Service levels

3.1.2 The appropriate level of service will vary between local authorities, and a Needs Assessment provides the basis for the selection and appropriate resourcing of a suitable model such as one of the following:

Needs Assessment Rating: Very High – typically a large dedicated noise team (e.g. 10 to 14 staff) providing an around-the-clock service with messages relayed through a point of public contact, accessible all day, every day.

Needs Assessment Rating: High – provided by a modestly sized dedicated noise team (e.g. 6 to 8 staff) giving a regular, extended hours service with messages relayed through a point of public contact, accessible all day, every day.

Needs Assessment Rating: Moderate – likely to include a contact point receiving complaints and a 'call out' service on Friday/Saturday evenings and at other targeted times and seasons. Officers may undertake non-noise duties in addition.

Needs Assessment Rating: Low – this may comprise a rota of non-specialist officers providing a standby response service to calls received by a duty officer. Attendance in non-urgent cases would be deferred until the matter could be investigated during the routine working week.

The assessment of local need

3.1.3 Local authorities must provide many services yet their resources are always finite. What proportion of those they can spend on noise services can best be guided by a robust and objective assessment of the current and anticipated demand which might include consideration of the following:

- data collected, including how they are recorded, their fairness, accuracy, security and legality;
- trends in data, such as the number of complaints recorded for each noise category, e.g. domestic, commercial, construction, industrial, leisure, etc.;
- the number of repeat complaints about the same problem as a proportion of overall complaint numbers for each noise type;
- distribution of complaints, in terms of temporal, seasonal or geographic trends;
- current performance of the service;
- current levels and outcomes of statutory enforcement activity, e.g. as set out in the CIEH's annual survey of noise enforcement activity;
- an objective evaluation of the performance of the service against other comparable service providers, e.g. using benchmarking exercises as part of a 'best value' or similar review;
- an assessment of the balance of resources deployed pro-actively and reactively; and
- consultation with stakeholders to determine what their needs and expectations are, e.g. members of the council, social landlords including the local

authority, residents and tenants groups, local community groups, local chamber of commerce and business groups, police, previous noise complainants and noise-makers.

- 3.1.4 A government report, *Guidance on Enhancing Public Participation in Local Government*²², is aimed at involving the public in the decision making and judgements of local authorities though care needs to be taken in the design of such schemes and the interpretation of their outputs.

- 3.1.5 For many years, the CIEH has gathered and published statistics relating to noise complaints and enforcement activity nationwide. These data are based on voluntary returns requested from all local authorities and are used by both CIEH and Defra for, among other things, evaluating trends in noise complaints and to help identify areas where local authorities may be experiencing problems. Some years ago, both organisations identified a need for a more detailed evidential database to inform the development of national policy and aid the review of powers available to local

EXAMPLE OF GOOD PRACTICE: ROYAL BOROUGH OF KENSINGTON & CHELSEA

Results of noise and nuisance questionnaire

Residents Panel consultation surveys are carried out by Kensington & Chelsea four times a year. The October 2002 questionnaire contained specific questions covering noise and nuisance. From a total of 708 completed questionnaires (a response of 58%) 146 residents identified noise as the environmental problem with which they were most personally concerned. This was then subdivided into the noise source that bothered, annoyed or disturbed them, covering the various transportation noise sources; building, construction and demolition and road works; neighbour noise, both within the home and outside; entertainment noise; and industrial noise. Residents were asked to rank the top five most annoying noise sources. The table opposite details the score for each source of noise.

Although traffic noise is not strictly relevant in the context of this Guide, evaluating transport noise alongside other noise complaints can prove persuasive when pursuing funding for a 'noise service'.

In this case, noise from road traffic was the most annoying type of noise, followed by construction, demolition, renovation or road works, then noise from neighbours inside their homes.

As part of the survey the residents' sensitivity to noise was also questioned. Further detailed questioning related to response to noise within the home, at different times of the day and night, and any consequent actions taken to deal with noise.

	Score
Road traffic	1,912
Building, construction, demolition, renovation or road works	1,747
Neighbours inside their homes, e.g. parties, music	1,385
Aircraft	1,127
Other people nearby	707
Other entertainment or leisure, e.g. pubs, restaurants	522
Any other noise	381
Other commercial premises (including refuse collection from them)	343
Trains or railway stations	336
Community buildings, e.g. churches, community centres	172
Sports events	116
Factories or works	100
River or canal work	46

22 ODPM, Aug 2004, see: www.communities.gov.uk/index.asp?id=1135571

authorities. That need was endorsed by the Commons Environmental Audit Committee²³ and following consultation with local authorities, the CIEH and Defra subsequently developed a more comprehensive noise statistics framework for implementation via existing local authority complaint management software²⁴.

- 3.1.6 This framework was put into use in England, Wales and Northern Ireland from 1 April 2005. The data since requested will be even more helpful to a local authority when assessing/reviewing local needs, formulating noise service policies and practices and for monitoring the success of local initiatives.
- 3.1.7 For all these service models, the service might also undertake programmed visits, e.g. to monitor regular disturbance from licensed premises or domestic noise that occurs at routine times. In these circumstances, a collaborative approach between local authorities may be a cost effective and efficient option. In some cases, an 'out-of-hours' service may be partly or wholly contracted out; in others a formal agency agreement entered into with another local authority and the service offered on a rotational basis though officers from outside the 'home' local authority might only be delegated the necessary powers for specific problems such as audible intruder alarms.
- 'Out-of-hours' provision**
- 3.1.8 The majority of local authorities now resource some scale of 'out-of-hours' service to provide prompt investigation of noise complaints at times outside of the traditional Monday to Friday '9 to 5' work day. Authorities that do so generally report that such a service is popular, frequently used and provides value for the resources expended.
- 3.1.9 'Out-of-hours' services broadly fall into one of six types:
- a seven day per week, 24 hours per day service;
 - a seven day per week, but less than 24 hours every day service;
 - a 24-hour service provided on certain days only, e.g. weekends;
 - certain hours of certain days only, e.g. 20:00 to 04:00, Thursday to Friday;
 - a stand-by service under which an officer may be called out on an ad-hoc basis;
 - programmed visits made to on-going noise problems.
- 3.1.10 Models may be adjusted for seasonal variation in the demand for the service with complaint numbers often being higher in summer than in winter but whatever form the 'out-of-hours' service takes, it will require detailed arrangements and operational protocols to be established. Modification of an existing 24-hour support service or other emergency call out system elsewhere in the local authority may provide a suitable starting point.
- 3.1.11 Amendments to the Noise Act 1996 contained in section 42 of the Anti-social Behaviour Act 2003 now allow local authorities to use the night noise offence powers under the Noise Act 1996 without formally adopting the legislation and without the need for a reactive noise service every night of the week, throughout the year²⁵.
- When is an 'out-of-hours' service required?**
- 3.1.12 Research by ENCAMS on behalf of Defra²⁶ indicates that:
- a percentage of noise victims are unlikely to complain to their council because they feel isolated in their suffering and do not believe that anyone can resolve the situation. These noise sufferers can be very distressed and can become 'resigned victims' because they have no faith in the

²³ See recommendation 26 at: www.publications.parliament.uk/pa/cm200304/cmselect/cmenvaud/1232/123204.htm

²⁴ See Appendix 7

²⁵ Defra Circular NN/31/03/2004, National Assembly for Wales Circular NAFWC 22/2004, *Noise Act 1996 (as amended by the Anti-social Behaviour Act 2003)*, Defra, June 2004, see: www.defra.gov.uk/environment/noise/pdf/noise-act-circular.pdf

²⁶ *Neighbour Noise – a guide for the public*, Encams, November 2003, at: www.encams.org/uploads/publications/noise_sq.pdf

- system helping them. Providing an 'out-of-hours' noise service helps reduce the degree of isolation felt by noise victims;
- publicising a noise service effectively leads to increased public awareness and service uptake;
 - the uptake of the 'out-of-hours' noise service is likely to be higher than any previous '9 to 5, weekday only' service;
 - an 'out-of-hours' noise service reduces the response time to complaints and the time taken to resolve cases; this is popular with noise victims;
 - an 'out-of-hours' noise service also reduces wasted staff time and resources in dealing with repeated or unjustified noise complaints as cases tend to be investigated, resolved and closed more quickly;
 - a 24/7 service, reacting to and taking action on noise complaints as they happen, is not always needed. 'Out-of-hours' noise services targeted to peak demand periods, with visits made to gather evidence and any action deferred until authorised staff are available, can be acceptable, however, a 24-hour hotline staffed with personnel trained in taking, screening and prioritising complaints, and sensitively dealing with complainants, contributes significantly to achieving high levels of customer satisfaction.

3.1.13 A benchmarking survey²⁷ in 2000/2001 of most London Boroughs providing a service

found that the peak of complaints received generally occurs on Friday and Saturday nights from 22:00 to 02:00, although significant numbers of complaints were also received at a similar time throughout the week. Figure 3 opposite shows an analysis of when noise complaints were received by the Royal Borough of Kensington & Chelsea, at a time when the borough operated a 24-hour/ seven day a week service.

The pattern of demand for the Kensington & Chelsea noise service fits within the general profile of the timing of the most common source of complaint – domestic noise disturbances – found by the BRE study of domestic noise complaints undertaken for the DETR in 1999²⁸.

3.1.14 This study found that in a sample of local authorities, the majority of domestic noise disturbances occurred outside traditional '9 to 5' weekday working hours. Though the number of complainants reporting disturbance increased throughout the day from 06:00, a broad peak in complaints was seen between 21:00 and 03:00, the majority of those between 23:00 and 02:00, with the lowest levels of disturbance occurring between 05:00 and 12:00. Music was principally responsible for complaints in the period 18:00 to 03:00.

3.1.15 Both the BRE study and the London benchmarking study support the case for an

EXAMPLE OF GOOD PRACTICE: LEEDS CITY COUNCIL

Public promotion of the noise service

An out-of-hours noise complaint scheme was introduced which led to a dramatic improvement in the council's noise service. Prior to the introduction of the weekend and night-time scheme in 2001, no specific publicity had been given to the council's noise service and noise complaints were dealt with by standard letters, resulting in few visits and poor levels of customer satisfaction.

The new scheme was promoted with an innovative marketing campaign involving a credit card size flyer displaying the hours of operation and a contact telephone number for the service being sent out to households throughout the area. Analysis of the service's impact during its first year indicated that there had been a doubling of the number of domestic noise complaints received, which had, in turn, led to a 412% increase in enforcement action by the environmental health service.

²⁷ Greater London Noise Benchmarking Study Report, CIEH (2002)

²⁸ Domestic Noise Complaints – furthering our understanding of the issues involved in neighbourhood noise disputes, Grimwood C, Ling M, BRE, December 1999, see: www.defra.gov.uk/environment/noise/research/domestic/pdf/domestic.pdf

FIGURE 3: PATTERN OF DEMAND – ROYAL BOROUGH OF KENSINGTON & CHELSEA

This diagram represents the number of service requests that occurred in any given hour and day of the week, as a percentage of the weekly total (hue of shading indicates number of complaints)

Hour starting	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
06:00	0.08	0.26	0.31	0.15	0.10	0.21	0
07:00	0.26	0.41	0.36	0.44	0.51	0.48	0
08:00	0.30	0.30	0.25	0.16	0.40	0.51	0
09:00	0.20	0.07	0.07	0.03	0.12	0.54	1
10:00	0.08	0.03	0.00	0.13	0.12	0.61	1
11:00	0.18	0.07	0.03	0.02	0.15	0.64	1
12:00	0.07	0.15	0.03	0.03	0.12	0.86	1
13:00	0.13	0.02	0.05	0.02	0.07	1.27	1
14:00	0.07	0.00	0.07	0.00	0.08	1.15	0
15:00	0.03	0.03	0.03	0.03	0.03	0.95	0
16:00	0.02	0.08	0.02	0.03	0.05	0.94	0
17:00	0.44	0.66	0.40	0.49	0.74	0.99	0
18:00	0.79	0.81	0.72	0.76	0.91	0.97	0
19:00	1.10	0.92	0.92	0.82	1.19	0.84	0
20:00	0.99	0.99	1.07	0.72	1.22	0.86	0
21:00	0.99	0.95	0.87	1.20	1.33	1.12	0
22:00	0.79	1.05	1.05	0.79	1.28	1.45	0
23:00	0.86	1.15	1.12	1.38	1.40	1.75	0
24:00	0.95	1.14	1.14	1.23	1.81	2.50	0
01:00	0.87	1.04	0.49	0.79	1.50	2.22	0
02:00	0.43	0.61	0.44	0.59	1.09	1.47	0
03:00	0.41	0.28	0.23	0.41	0.71	1.09	0
04:00	0.30	0.12	0.23	0.15	0.43	0.63	0
05:00	0.07	0.10	0.16	0.10	0.35	0.49	0

EXAMPLE OF GOOD PRACTICE: BELFAST CITY COUNCIL

Noise Act 1996

Following an assessment of customer needs and the analysis of noise complaints made to local police stations and other agencies; there was strong political and public support for the introduction of a night-time noise service and adoption of the Noise Act. This led to a 400% increase in service requests and two thirds of all noise complaints are now made directly to the night-time noise service.

The statutory nuisance provisions (Part III) of the Environmental Protection Act 1990 do not apply in Northern Ireland and Noise Act powers are now frequently used to resolve neighbour noise disputes. In practice, by having a reactive night-time service the majority of these complaints are resolved informally without the need for warning or fixed penalty notices. However, the threat of a £100 fine has proved an effective deterrent and there has been a 95% compliance rate for Noise Act warning notices.

Belfast City Council does not operate throughout the whole of the night noise offence hours, i.e. 23:00 to 07:00 (this is allowed under the amendments of the Noise Act 1996 contained in the Anti-social Behaviour Act 2003) but instead targets the hours between 20:00 and 04:00 when complaints are most likely to arise. The night-time service terminates at 04:00 because less than 3% of service requests are received between 04:00 and 08:30 (when day staff come on duty). Often, for complaints made during this period, the noise commenced long before 04:00 and the council is actively promoting the service and encouraging complainants to promptly contact the night time service when the problem arises. Though the council is well aware of some practical problems with the Noise Act in terms of measuring exceedances of the permitted level within the complainant's property and the underestimation of bass beat, in Belfast the service has been able to use this legislation effectively to resolve night-time neighbour noise disputes.

'out-of-hours' noise service when noise problems are more common and generally have greater impact than noise problems that occur during the normal working day.

- residents;
- local businesses;
- ethnic groups;
- the elderly; and
- people with disabilities.

Stakeholder issues

3.1.16 Authorities should regularly review the efficacy and usage of whatever service model they adopt. The aims of the review should be to:

- establish whether established performance objectives and targets are being met;
- identify where changes in the service might be justified;
- identify if any under performance is occurring and how it could be tackled; and
- identify if the policy serves all parties fairly²⁹, including:

3.1.17 The review should concentrate not only on customer satisfaction and the take-up of the service by different groups but also seek to establish whether use by one section of the community may disadvantage another. Concern has been expressed by some community groups that ethnic minorities may sometimes be over-represented in enforcement activities for alleged noise nuisance. Local authority environmental health services must guard against the misconception that noisy parties, for example, are usually held by specific racial groups.

²⁹ See 1. *Statutory Code of Practice on the Duty to Promote Race Equality*, Commission for Racial Equality (2002), at: www.cre.gov.uk/downloads/duty_code.pdf, 2. *The duty to promote race equality – A Guide for Public Authorities – (Non-statutory)*, Commission for Racial Equality (2002), at: www.cre.gov.uk/duty_guide.pdf and 3. *Good Practice Guide – Service Delivery*, Equal Opportunities Commission, at: www.eoc.org.uk/Default.aspx?page=15376

3.1.18 In addressing noise complaints which involve members of the public from ethnic communities, the local authority should adopt a sensitive strategy based upon information and advice from, for example, racial equality councils and community groups. Use of interpreters and translators for communication with complainants and noise-makers whose English language skills are poor is good practice. Local authorities must remain aware that complaints about neighbour noise in particular have the potential to be a vehicle for harassment. As a matter of course, local authorities should undertake ethnic monitoring of all noise cases to ensure they are enforcing the law in a non-discriminatory way. Care should be taken in analysing customer feedback surveys since participants by definition lack objectivity.

3.2 RESOURCES

3.2.1 Under the Environmental Protection Act 1990, local authorities have a statutory duty to take "such steps as are reasonably practicable" to investigate noise complaints and take action to remedy noise if this constitutes a statutory nuisance. This duty is reinforced by section 6 of the Human Rights Act 1998 which makes it unlawful for a local authority to fail to act to protect, *inter alia*, rights to private and family life, which includes the impact of serious pollution. To fulfil these duties, local authorities must have adequately resourced and competent officers available to take appropriate action when noise problems occur; this may be outside normal office hours, as discussed above.

3.2.2 The determination of what constitutes an appropriate level of resource to commit to the noise service will be guided by the assessment of local needs (see 3.1.3 above) and an evaluation of staffing, revenue and capital operational costs. The size and type of noise service is likely to vary:

- in a large authority there is often a specific noise team including sufficient in-house technical specialists and dedicated

support staff (e.g. 10 to 14 staff) to provide 24-hour services responding to messages from a publicised point of contact;

- where demand on the service is slightly less or, in a medium size local authority where demand on the service is high, an in-house specialist team of perhaps 6 to 8 staff giving a regular extended hours service via a 24-hour point of public contact might be appropriate;
- in a medium size local authority subject to a moderate demand for noise services there may be limited 'out of hours' cover provided by officers on a 'call out' service targeted at critical times such as Friday and Saturday evenings but possibly also undertaking other non-noise duties in addition; and
- in a small local authority without noise specialists, a rota of non-specialist officers on standby, who are contacted via a duty officer for urgent cases that cannot properly be deferred to permit investigation during the normal working week, may be all that is justified by the needs assessment. However alternatives should be considered, such as developing an association or collaboration with other nearby local authorities and/or outsourcing elements of the noise management service to provide an economical but effective service.

3.2.3 Importantly, the design and resourcing of the service must take account of the health and safety issues for staff and ensure a safe system of work is provided. This should address the following issues:

- the Working Time Regulations 1998³⁰;
- adequate rest time between shifts;
- lone worker issues;
- personal protective equipment; and
- transportation.

3.2.4 The assessment of existing resources should identify all noise control work undertaken within the authority, not just within the environmental health service. The data and information collected will be of value in determining not only who provides the

service, but also what resources should be allocated to it in the future and where they might come from. For example, these costs might extend beyond the environmental health service and include:

- the total costs of noise control work carried out by the environmental health service, e.g. staff costs (including training), capital cost and running costs of equipment and vehicles, costs associated with storage of seized and forfeited equipment (less revenue from its subsequent sale). Attention is drawn to the framework for cost accounting recommended for LAPC by Defra in AQ2/01³¹;
- the total costs of staff resource and equipment in other departments, for example: advice and inspection by building control services on noise control in new build or conversions;
- the application and enforcement of noise conditions attached to planning permissions, e.g. what time is spent in determining the appropriate conditions and the cost of enforcing these conditions; and
- how much time, resource or equipment is

spent in public-sector housing management investigating and taking action to deal with noise problems.

- 3.2.5 The resourcing plan should set out a clear timetable for reviewing its implementation. For example, over a period of time, the extent of any out-of-hours service may need to be amended to meet changes in the needs of the local community.

3.3 COMPETENCE AND TRAINING

- 3.3.1 Critical to the effectiveness of the noise service is the training and competence of its staff. Though in a different context, a statement of the essential principles to ensure that staff either have adequate standards of competence or are subject to adequate and appropriate supervision is provided in the Health and Safety Commission's *Section 18 Guidance Note to Local Authorities*³².
- 3.3.2 In any environmental health service, officers undertaking noise investigations generally will fall into one of two groups, either Environmental Health Professionals

HELP WITH FUNDING – NEW INITIATIVES

Additional funding may be available should a local authority include a 'stretched' target for noise services as part of its Local Area Agreement (LAA) Reward Element.

The LAA Reward Element carries on from the Local Public Service Agreements (LPSAs) that have been in operation since 2000, whereby top-tier authorities negotiated a package of around a dozen or so 'stretched' targets with Government. These 'stretch' targets required authorities to consider their performance in service areas over a three year period, then commit to deliver an enhancement in performance beyond that, for which the authority would receive a Performance Reward Grant were it successful. To assist in this delivery, the authority received a Pump Priming Grant to spend as it wished in pursuance of the targets.

These same principles of 'stretch', Performance Reward Grant and Pump Priming Grant continue within the LAA Reward Element, the difference being that such targets are now negotiated as part of the LAA process by the relevant Government Office. See: www.odpm.gov.uk/index.asp?id=1161635

It should be noted, however, that framing 'stretched' targets around noise services has proven problematic under LPSAs. For example, a target around reduced reporting of noise nuisance may in theory be achieved by a worsening of the reporting mechanism or a reduction in the service's public profile. By the same token, an authority would need to be wary since it is likely that the better their reporting and response service the greater the likelihood that people will report it. Given this, noise related stretch targets have tended to use perception indicators measured by survey.

³¹ AQ 2(01) *Cost accounting for Local Air Pollution Control (LAPC)*, Defra and WAG, July 2001 at: [www.defra.gov.uk/environment/airquality/lapc/aaqnotes/aaq2\(01\).htm](http://www.defra.gov.uk/environment/airquality/lapc/aaqnotes/aaq2(01).htm)

³² Health & Safety Commission, October 2002, at: www.hse.gov.uk/lau/pdfs/sec18.pdf

who hold a Certificate of Registration of the Environmental Health Registration Board or technical officers who have taken other appropriate qualification routes.

- 3.3.3 The training of the first group, at least in more recent years, has been designed around a number of relevant 'core' competencies. Environmental Health Professionals holding a Certificate of Registration issued by the Environmental Health Registration Board (EHRB) and having qualified via the 'logbook route' (post 1997) will, of necessity, have had to demonstrate to a CIEH appointed assessor that they have had involvement in at least three noise cases. Additionally they will have had to demonstrate their ability to obtain representative and reliable noise samples and data and be able to collate, organise, analyse and interpret the results of these noise sampling programmes and surveys using recognised national and international standards. This requirement is one of the logbook's Stage 'B' Critical Learning Outcomes. Close support will nevertheless still be essential for officers new to the function as they gather specialist experience and those who have not recently been active in noise control matters may require refresher training.

- 3.3.4 Officers coming to this function without the benefit of a comparable training are thought unlikely to be competent to undertake it adequately with much less than two years practical experience during which time they will have been closely supervised and gained a thorough knowledge of both technical and administrative aspects of noise control in conjunction with qualified colleagues.

- 3.3.5 For both Environmental Health Professionals and technical officers there are a number of Institute of Acoustics (IOA) training courses offered by universities and colleges leading to the following qualifications:

- Postgraduate Diploma in Acoustics and Noise Control;
- Certificate of Competence in Environmental Noise Measurement; and
- Certificate of Competence in Workplace Noise Assessment.

- 3.3.6 Local authorities are encouraged to construct a skills profile for each post in their noise service against which the skills of post holders can then be matched and appropriate additional training provided as necessary. This may be more difficult for smaller local authorities and in such cases there may be opportunities via formal partnership agreements for officers of adjoining or nearby authorities to work together in gaining experience and developing and maintaining the necessary knowledge and skills.

- 3.3.7 In general, there should be no necessity for officers working on administrative or managerial functions relating to pollution control to achieve the same level of competence, particularly in technical issues, as those required for 'field' officers. However, no less consideration should be given to the skills required for those particular posts and, where necessary, additional appropriate training should be provided for those too.

- 3.3.8 Professional and technical training for officers falls into several categories. It may be needed to introduce 'new entrants', i.e. officers newly-qualified or previously engaged on other duties, to the noise service, to introduce new legislation or a technical development to those already working for the service, or it may be in the nature of 'refresher' training, reinforcing knowledge already acquired but, perhaps, little used. In each case, it may be obtained from external sources – for example courses leading to the Institute of Acoustics qualifications – however there will be many instances where adequate 'in-house' training can be developed either within an individual local authority or by nearby local authorities joining together to define their needs and how they can best be satisfied, probably at lower cost. This latter approach may be most appropriate for procedural matters.

Out-sourcing

- 3.3.9 There may be occasions when a local authority finds the need for external specialist advice on a noise issue, perhaps where they are outside the experience or competence of its own officers or for short-term cover when an experienced officer

leaves and there is a delay in appointing a suitable replacement.

3.3.10 'Buying-in' services, possibly following a 'Best Value' review, may also be a means of achieving economies of scale – the Local Government Act 1972 makes provision for local authorities to assist one-another through agency agreements and to 'buy in' services from independent consultants. Section 101 details the arrangements for the discharge of functions between local authorities including the ability to share fees and charges as appropriate. Section 113 provides for staff of one local authority to be placed at the disposal of another local authority.

3.3.11 Should an authority choose to pursue this option, it has a responsibility to be satisfied that the 'bought in' services demonstrate the same level of competence as would be required from its own officers, i.e. the authority still retains overall responsibility for performance of the appropriate noise control function.

Appointment and authorisation

3.3.12 Only those officers who are regarded as competent to perform the function by their employing local authority should be authorised or given the necessary appointment. It will be a matter for each local authority to judge who is, or is not, to

be authorised but caution must be exercised in allocating powers for the sakes of all concerned. Appointments must be made only through the formal local authority process, formally recorded for verification, if needed, and officers issued with appropriate appointment documentation.

3.3.13 It is expected that from time to time (for example, when a Scheme of Delegation is considered), authorities will review the appointments of all their officers. Where an officer ceases to be employed by the local authority or where there is no longer any necessity for holding an appointment for noise control duties, etc. the authority should formally terminate that appointment, such termination being recorded. Attention to the 'correct' authorisation of officers will ensure that no legal challenge can be successful.

Updating and continuing professional development

3.3.14 Though the principal responsibility for training must rest with employers (who must maintain sufficient budgets to meet it), it is expected that officers undertaking the function will regularly update themselves by reference to various authoritative publications, the use of appropriate websites (to which all professional staff should have unrestricted access) and other similar sources of information, by continuous discussion with

EXAMPLE OF GOOD PRACTICE: VARIOUS LOCAL AUTHORITIES

Appropriate training of enforcement officers

The following good practice measures have been used in different authorities to help ensure that enforcement officers are suitably trained:

- recruitment policies, e.g. written job descriptions, person specifications and minimum requirements for qualifications and experience;
- all non-Environmental Health Professionals or technically qualified officers undertake the Institute of Acoustics (IOA) Certificate of Competence in Environmental Noise Assessment;

- a 'mentoring' system exists where each action taken is recorded and monitored by a senior officer;
- professional discussion and support;
- appraisal interviews;
- refresher training;
- team meetings and discussions on complex cases;
- career development of individual officers, including development and adherence to a formal training plan and competence tests for field officers in the assessment of nuisance and in the use of sound level meters.

officers from their own and other authorities, attendance at Pollution Study Group meetings and the like. Employing authorities should support these activities.

- 3.3.15 Continuing Professional Development (CPD) is a requirement for members of the Chartered Institute of Environmental Health and for several other professional bodies. CPD 'points' may be obtained as a result of attendance at relevant training sessions, for involvement in cascade training within a local authority or group of authorities and also from involvement in other 'professional development' activities such as attendance at conferences and symposia, etc.

3.4 SAFETY

- 3.4.1 There are significant personal safety issues for staff engaged in the investigation of complaints and enforcement of noise nuisance legislation. Appendix 4 contains advice from the now defunct Society of Environmental Health Officers regarding personal safety at meetings and on site visits.
- 3.4.2 A documented risk assessment procedure for visiting sites should always be in place and the safe working procedures developed may include one or more of the following:
- compliance with the Working Time Regulations 1998, including allowing additional time beyond the statutory minimum for the recuperation of staff after late night 'out-of-hours' duties, where a documented risk assessment shows it to be appropriate;
 - use of radios with panic buttons linked to the control room;
 - officers accompanied by buildings' concierges;
 - joint visits with colleagues or police;
 - lone working arrangements during normal office hours and joint working at night and at weekends;
 - use of anti-stab jackets, particularly during seizures;
 - putting a 'tracking log' system in operation whereby a supervising officer sets priority of complaint and knows of whereabouts of rapid response officers. Clients are updated on likely response

times for dealing with complaint and the whereabouts of field staff are known in case of emergency, etc.

- a list of known 'difficult customers', with guidance on how to deal with them, e.g. do not approach or only approach with police support. This information may not always be held electronically but data protection legislation requires that such information, however stored, should be kept confidential to the staff who may be affected, continuously updated, reviewed regularly and destroyed when no longer necessary.

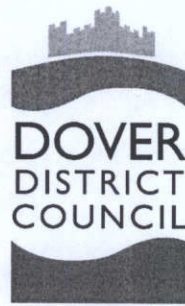
3.5 INVENTORIES (EQUIPMENT ETC.)

- 3.5.1 Where noise level measuring or recording equipment is in use, it is essential to have a record of the technical capabilities and limitations (accuracy) of the equipment together with current calibration certificates. Calibration certificates will in general need to be renewed at two year intervals and may need to be available for legal proceedings.

Information

One authority hires out items of equipment to other authorities as part of an arrangement which funds the cost of their annual calibration by an accredited laboratory.

- 3.5.2 An inventory for an 'out-of-hours' service should also include:
- clear and simple instructions for installing and operating the equipment in typical situations;
 - a file of written procedures;
 - blank copies of standard letters, notices, applications for warrants, warrants and receipts for seized equipment;
 - a list of telephone contacts, e.g. JPs, glaziers, locksmiths, etc.;
 - a sound level meter system including a calibrator, windshield and spare batteries; and
 - an equipment bag containing torches, attack alarms, mobile phones, etc.



TECHNICAL ADVICE FOR CONSULTANTS ON SOUND INSULATION AND NOISE CONTROL CRITERIA FOR ENTERTAINMENT LICENSED PREMISES.

- 1.0 Appoint an acoustic consultant, registered with the Institute of Acoustics or Association of Noise Consultants, with the brief to undertake a thorough acoustic survey of the neighbourhood with regard to noise sensitive premises near the proposed licensed premises. The survey to identify representative existing background and ambient noise levels during all times of operation of the proposed licensed premises, as $L_{A90(5min)(f)}$ and as real time simultaneous $L_{eq(5min)(f)}$ 1/1 octave bands centred on the frequencies 63Hz and 125Hz.
- 2.0 Measurements to be taken 1 metre from the facade of the nearest noise sensitive premises or calculated as for this position from readings taken at appropriate locations. Where the proposed licensed premises share party walls, floor/ceiling partitions or other construction elements with a non-associated noise sensitive premises, then existing background and ambient noise levels as described above shall be measured within those non-associated noise sensitive premises. Where access to such noise sensitive premises is not available, then measurements in similar premises in a similar acoustic environment may be substituted.
- 3.0 Using the results of the acoustic survey, a scheme of sound insulation works and other noise control measures is to be designed for the proposed licensed premises. The objective of the scheme is to ensure that music noise from the proposed licensed premises does not cause undue disturbance or is unreasonably intrusive. The scheme of works and other noise control measures is to be based on predicted minimum internal music noise levels of 95 dB(A) $L_{eq(5min)(f)}$ with 95 dB in the 63Hz and 125Hz 1/1 octave bands within the parts of the premises designated for music and dancing.
- 4.0 The schedule of works should achieve the following

Where there are no shared party walls, floor/ceiling partitions or other construction elements with adjoining non-associated noise sensitive premises.

Where the licensed premises is proposed to operate only between 0700 and 2300 the music noise at all times of operation, shall not cause an increase of more than 2dB in the $L_{A90(5min)(f)}$ when compared with the existing equivalent $L_{A90(5min)(f)}$ without the premises in operation.

At the same times the music noise from the proposed licensed premises shall not cause an increase of more than 3dB, above the real time simultaneous $L_{eq(5min)(f)}$ 1/1 octave band sound pressure level centred on the frequencies 63Hz and 125Hz, when compared with the existing equivalent $L_{eq(5min)(f)}$ (63Hz and 125Hz) taken without the premises in operation.

Where the licensed premises is proposed to operate at any time between 2300 and 0700. the music noise at all times of operation, shall not cause any increase in the $L_{A90(5min)(f)}$ when compared with the existing equivalent $L_{A90(5min)(f)}$ without the premises in operation.

At the same times the music noise from the proposed licensed premises shall not cause any increase in the real time simultaneous $L_{eq(5min)(f)}$ 1/1 octave band sound pressure level centred on the frequencies 63Hz and 125Hz, when compared with the existing equivalent $L_{eq(5min)(f)}$ (63Hz and 125Hz) taken without the premises in operation.

Measurements to be taken 1 metre from the facade of the nearest noise sensitive premises. Where access to the facade of non-associated noise sensitive premises is not available, then the above music noise levels 1 metre from the facade of non-associated noise sensitive premises shall be predicted by calculation rather than measured.

Where there are shared party walls, floor/ceiling partitions or other construction elements with adjoining non-associated noise sensitive premises.

At all times of operation the music noise from the proposed licensed premises, within adjoining non-associated noise sensitive premises, shall not cause any increase in the $L_{A90(5min)(f)}$ when compared with the existing $L_{A90(5min)(fast)}$ without the premises in operation.

At the same times the music noise from the proposed licensed premises shall not cause any increase in the real time simultaneous $L_{eq(5min)(f)}$ 1/1 octave band sound pressure level centred on the frequencies 63Hz and 125Hz, when compared with the existing equivalent $L_{eq(5min)(f)}$ (63Hz and 125Hz) taken without the premises in operation.

Where access to adjoining non-associated noise sensitive premises is not available, then the above music noise levels within the adjoining non-associated noise sensitive premises shall be predicted by calculation rather than measured.

Guidance on the determination of existing background A-Weighted L_{90} and ambient L_{eq} 1/1 octave band sound pressure Levels.

The existing A-weighted background L_{A90} and ambient L_{eq} 1/1 octave band sound pressure levels referred to above are liable to vary at similar times from day to day. In order to establish representative values for these sound levels you are advised to follow the guidance in the current versions of BS 4142 and BS 7445 so as to derive logarithmic mean values, which have a standard deviation as small as possible, based on a representative sample of measurements relating to the hours of the application. The scheme of sound insulation works and other noise control measures is to be designed for the "worst case scenario" of the lowest existing logarithmic mean A-weighted background L_{A90} and ambient L_{eq} 1/1 octave bands (centred at 63Hz and 125Hz), during any time of proposed operation. For example if the premises is proposed to operate in the early hours of Sunday morning and this is when the existing background and ambient noise levels are at their lowest, then equivalent existing background and ambient sound pressure levels at these times are to be used in respect of the above advice.

Where the internal music noise level within the proposed licensed premises shall exceed the minimum internal music noise levels referred to in 3 above, the scheme of works and other measures shall be appropriately adjusted to meet the music noise targets from the proposed licensed premises at or in non-associated noise sensitive premises as stated in above.

- 5.0 Where entertainment noise control devices or automatic volume control systems are permitted they shall be calibrated and set up, to meet the noise control targets in 4. above. The installation of such devices shall take place under the supervision of an acoustic consultant, registered with the Institute of Acoustics or Association of Noise Consultants, who will provide a certificate of the completion and verification of the calibration and set up. The initial set up is to be witnessed by Council officers from the Environmental Health Department. An annual check of the effectiveness, with re-calibration where necessary, of the devices shall be undertaken by an acoustic consultant, registered with the Institute of Acoustics or Association of Noise Consultants, who shall provide a certificate of verification of the calibration and set up. Copies of the certificates of completion and verification of the calibration and set up, both initially and annually, to be provided to the Council's Licensing Team within 21 days of the check of effectiveness.
- 6.0 Where entertainment noise control devices or automatic volume control systems are permitted they shall be secured within robust lockable security boxing, or similar, to prevent unauthorised access to and tampering with the controls. Access to the controls is to be restricted to the licensee/s. On no account are DJs, musicians or their sound engineers to have access to the entertainment noise control device or automatic volume control system control
- 7.0 The scheme of sound insulation works and other noise control measures designed for the proposed licensed premises is to be submitted for consideration by the Council before execution. Any licence awarded shall not come into operation until the scheme of sound insulation works and other noise control measures has been undertaken in full and the licensee/s notified in writing of the commencement of operation of the licence.

Information on acoustic consultants registered with the Institute of Acoustics or the Association of Noise Consultants can be found via the following

Institute of Acoustics:
77A St Peter's Street
St Albans
Hertfordshire
AL1 3BN
Tel: 01727 848195
Fax: 01727 850553
Email: ioa@ioa.org.uk
www.ioa.org.uk

The Association of Noise Consultants
105 St. Peter's Street
St Albans
Hertfordshire
AL1 3EJ
Tel: 01727 896092
Fax: 01727 896026
mail@association-of-noise-consultants.co.uk
www.association-of-noise-consultants.co.uk

Dover District Council
Environmental Enforcement & Protection
White Cliffs Business Park
Dover
Kent CT16 3PQ
Tel: 01304 872428
Fax: 01304 872416
e-mail: envhealth@dover.gov.uk
www.dover.gov.uk

00013



University of Salford
A Greater Manchester University


HEPWORTH ACOUSTICS
noise and vibration consultants

Noise from Pubs and Clubs Final Report

Report for the Department for Environment, Food and Rural Affairs by
W. J. Davies
P. Hepworth
A. Moorhouse
R. Oldfield

w.davies@salford.ac.uk
<http://www.acoustics.salford.ac.uk>

March 2005
Contract no. NANR 92

Abstract

A review of available data on entertainment noise from pubs and clubs has been conducted with the aim of determining how a rigorous UK method for assessing it might be devised. There is considerable evidence that a noise annoyance problem exists and significant variation in how it is measured and assessed across the country. There is therefore a clear need for a universal, validated UK assessment method. Several candidate assessment methods are identified. These include methods specifically proposed for pub and club noise, those for general low-frequency noise, those relying on absolute criteria and those based on relative assessments.

A validation programme is described which would enable comparison of objective rating methods to listener perceptions of entertainment noise obtained under rigorous laboratory conditions. Seven factors are identified which may affect the magnitude of the recorded subjective response. These are: sound level, background level, differences between listeners, the context into which the sound intrudes, music type, bass level and bass beat. The validation programme would be supported by a series of field measurements. The two main outputs of the programme would be an optimised UK assessment method and a deeper understanding of the factors affecting perception of noise from pubs and clubs.

Contents

Abstract.....	2
1 Introduction.....	5
2 Analysis of existing information.....	8
2.1 Evidence of the problem.....	8
2.1.1 Typical noise levels.....	8
2.1.2 The popular press.....	9
2.1.3 Sociological investigations.....	10
2.2 UK response to the problem.....	11
2.2.1 Associated rating methods.....	11
2.2.2 Rating criteria – the inaudibility debate.....	12
2.2.3 Institute of Acoustics Working Group.....	13
2.2.4 Current measurement and assessment practice.....	15
2.2.5 Absolute Criteria.....	16
2.2.6 Comparative Criteria.....	17
2.2.7 Design Targets.....	18
2.3 International response to the problem.....	19
2.3.1 Codes for entertainment noise.....	19
2.3.2 Codes for low-frequency noise.....	21
2.3.3 Non-UK experience.....	23
2.4 Psychoacoustic Investigations.....	23
2.5 Candidate rating methods.....	24
3 Rationale for developing a new rating method.....	25
4 Validation test design.....	26
4.1 Field versus laboratory testing.....	26

4.2	Laboratory psychometric method	27
4.3	Laboratory sound reproduction.....	29
4.4	Laboratory variables	30
4.5	Subjective criteria	31
4.6	Subjects.....	32
4.7	Statistics	33
4.8	Field measurements	34
4.9	Measurement position.....	35
5	Conclusion	35
	References.....	38

1 Introduction

- 1.1 This is the final report for a contract let by the Department for Environment, Food and Rural Affairs to review existing knowledge of noise from entertainment sources from pubs and clubs. The overall aim of this work is to recommend criteria and measurement methods for assessing the noise from pubs and clubs for use by Environmental Health Officers (EHOs) and others. In the current project, published information on pubs and clubs has been analysed and a shortlist of suitable assessment methods drawn up. A scheme for rigorously evaluating the assessment methods has been devised and it is shown how this should lead to an optimal assessment method.
- 1.2 There is an extensive research-based literature on noise and its impact on communities. Generally, this takes the form of an attempt to predict the subjective response of a community using a quantitative measure derived from physical measurements of the noise. The most noticeable feature of this whole literature is the poor performance of the prediction (Schultz, 1982). In particular, a new metric is often found to predict annoyance well for the airport or road where it is developed. However, subsequent attempts to use it to predict annoyance for a similar noise source somewhere else often fail. There are a number of reasons for this, including: over-simplification in modelling both physical and psychological aspects of human auditory response, measuring too few physical characteristics of the noise and significant non-acoustic determinants of subject response. The latter can easily be understood by considering that a noise with many 'annoying' features may be much less annoying in some contexts than in others. For example, the response of an individual to a noise might be influenced by their relationship with the producer, by their perception of any information it carries (such as speech), or by their view of its appropriateness.

- 1.3 Hence, any project to develop a new noise rating must begin by conceding the difficulty of the task. Nevertheless, quantitative methods and rating criteria are essential if effective policies for noise control are to be developed. The risks of mis-prediction identified above may be minimised if an attempt is made to identify and control the problems listed above. For example, it may be that a substantial proportion of the annoyance from pub noise is caused by low-frequency components which are not well characterised by a single measurement of L_{Aeq} .
- 1.4 Perhaps partly because of the past failure of many predictive noise metrics, there is a general trend towards the use of L_{Aeq} to assess all noise. There are still many assessment criteria for different kinds of noise in different contexts, but they can be broadly divided into two types: fixed and relative. Fixed ratings specify a limit that the noise should not exceed. For example, BS 8223 (1999) gives desirable maximum noise levels inside various different buildings and rooms, expressed as L_{Aeq} values. Relative ratings compare the noise level (usually L_{Aeq}) with the background noise level without the noise source (usually L_{A90}). The noise level is allowed to exceed the background by only a certain amount. The most widely applied UK example of a relative method is BS 4142 (1997).
- 1.5 Noise from pubs and clubs is currently assessed in the UK using a variety of different schemes. However, there is currently no strong evidence that any one rating scheme is optimal, despite strong interest in the problem being expressed by several stakeholders. Meanwhile, the legislative framework for noise problems in England and Wales is changing. Perhaps the most significant development which may affect assessment of pub and club noise is the Clean Neighbourhoods and Environment bill. This draft bill, if enacted, would extend the Noise Act 1996 to cover licensed premises. The Noise Act 1996 is based on a relative criterion of assessing L_{Aeq} against the background level.

1.6 Noise issues relating to pubs and clubs include entertainment noise, noise from mechanical services equipment, noise from customers arriving and leaving, and noise from deliveries to the venue. These noises differ in character and hence in the way they must be assessed. Noise from mechanical services equipment is a frequent issue with pubs and clubs but is generally assessed using BS 4142. Noise from customers arriving and leaving is also frequently cited as an issue but it is less under the control of the pub and would seem to fall more into the character of 'people noise'. Though noise produced by people is certainly an issue, particularly in urban areas, there is not yet an adequate body of data which could support the development of a rating method for this source. Obtaining that data and developing a rating method for people noise would require a much larger project than one focussed on noise radiating directly from pubs and clubs. Entertainment noise seems more amenable to rating, but there is currently no established single method and several different techniques have been proposed by others. It is therefore sensible that this project is concerned solely with the impact and effects of entertainment noise arising from pubs and clubs.

1.7 In the next section, the available information on the assessment of noise from pubs and clubs is analysed. Evidence of the noise problem is discussed, followed by analysis of UK and international methods for rating and control. Section two concludes with a summary of the assessment methods that could form the basis for a final, optimised method. Section three outlines the rationale for progressing from several candidate methods to a single optimal one. Section four discusses in detail the scientific programme that would be needed to accomplish this.

2 Analysis of existing information

2.1 Evidence of the problem

2.1.1 Typical noise levels

2.1.1.1 Hepworth Acoustics Ltd has a database of over 600 individual noise measurements carried out in around 80 licensed premises throughout the United Kingdom. Many of these measurements relate to sound levels within branded bars and night clubs, where the operator desires similar noise levels in all premises of the same brand throughout the country. These measurements have usually been carried out to obtain data for the acoustic design of new premises, although some measurements have been carried out in response to noise complaints.

2.1.1.2 The measurements cover a wide range of premises from bars with no music and restaurants to themed music bars and nightclubs. The measurements have been carried out at a number of locations within the venues, but have normally been designed to obtain data on the highest sound levels within the premises, to ensure that the acoustic control measures are designed using appropriate source levels. This means that most of the measurements were carried out on a busy trading night when music was played at maximum volume.

2.1.1.3 The database has been built up over a number of years, and there are some variations in the data recorded on different surveys. All of the noise measurements carried out recorded both A-weighted broadband and unweighted octave band L_{eq} values as a minimum. Most measurements also recorded both A-weighted and octave band L_{max} values. Other noise indices, such as L_1 , L_{10} and L_{50} were recorded on some of the surveys.

2.1.1.4 The results from the database show a wide range of measured levels. Noise levels measured in bars and restaurants during quiet periods showed noise levels of 65-70

dB L_{Aeq} . Noise levels of up to 88 dB L_{Aeq} were measured during busy periods in bars not playing music i.e. just customer noise. Many bars playing music had noise levels of 90 – 95 dB L_{Aeq} during busy periods, with noise levels on dance floors of night clubs measured at up to 105 dB L_{Aeq} .

2.1.1.5 The range of measured levels at the 63 and 125 Hz octave bands was slightly wider than for the A-weighted levels. (These frequency bands are often dominant in amplified music.) Noise levels up to 115 dB L_{eq} in the 63 Hz octave band and 110 dB L_{eq} in the 125 Hz octave band were recorded on dance floors of night clubs.

2.1.1.6 Maximum noise levels are obviously higher than L_{eq} values, although there is no constant difference between the two indices. Differences of between 5 and 15 dB have been noted between L_{eq} and $L_{max, fast}$ levels for both A-weighted and octave band measurements. The type of music being played and the level of compression of the music will have influenced the difference between the noise indices.

2.1.2 The popular press

2.1.2.1 Stories about pub and club noise are a staple of local newspapers, particularly where the problem is longstanding or confrontational – for example, Hampstead & Highgate Express (2004). Sometimes these stories find their way into the national press. Often these are short fillers, précis of the local paper account of the dispute, as in The Mirror (2002) and Bone (2004). A different kind of article is sometimes carried by the broadsheets when covering trends in urban living. Property pages not infrequently devote several columns to discussing the advantages and disadvantages of modern urban living, and noise is usually identified as an issue. Arnot (2002) is an example of this kind of article and it includes several miniature case studies of new city dwellers trying to accommodate to entertainment noise.

2.1.3 Sociological investigations

2.1.3.1 Perceived quality of life of urban populations is a topic which has received considerable attention from social scientists over the last twenty years. However, there are few research outputs which deal specifically with the effects of pub and club noise on neighbourhoods. The only directly relevant study (MCM Research Ltd, 2003) explored the possible effects of the recent change in the licensing laws on noise from pubs and clubs. The views of a range of stakeholders were sought by interview and questionnaire. The results showed a widespread concern at the extent of the noise problem, though it was noted that national surveys of background noise levels revealed only a small increase in L_{A90} . The authors recommended the development of national assessment methods and criteria for pub and club noise.

2.1.3.2 Refereed social science journals do not seem to contain any research as directly relevant as the MCM study. There are two papers which do seem at least peripherally relevant. The first addresses the nuisance caused to local residents by rock concerts held at a football stadium (Chase and Healey, 1995). It is reported that staging rock concerts at the stadium has increased the negative effects generated, particularly noise levels. However, contrary to anecdotal evidence, football-induced nuisance is perceived as being a greater problem overall, possibly due to the higher frequency of matches. The second paper (Bromley et al., 2003) examines use of a city centre environment by different groups of people. It is found that "The evening clientele visit less frequently and are disproportionately drawn from the older and higher status social groups, whereas later at night, pubs and clubs are visited more frequently, and by imbalances of the young, lower status groups, and students." City centre users are segregated in time, so noise from pubs and clubs is likely to be made by one social group and impinge on other groups. It could be hypothesised

that we are more tolerant of noise produced by people from our own social group, so this study would seem to indicate an increased risk of nuisance.

2.2 UK response to the problem

2.2.1 Associated rating methods

2.2.1.1 Before noise from pubs and clubs was addressed in specific regulations, there were of course, various regulations aimed at controlling other kinds of noise. One important precursor is BS 4142 (1997). This standard attempts to provide an objective rating method for noise in such a way that the rating will correlate with the likelihood of complaints. The method explicitly excludes prediction of annoyance and is specified only for industrial noise affecting residential buildings. However, it became widely used outside its specification because it provided a simple method in an area perceived to be very complex – predicting subjective reaction to noise. The rating is based on a simple L_{Aeq} measurement with added decibel penalties for perceived tonality or intermittence. Noise from pubs and clubs will have been widely assessed using BS 4142 prior to the attempt to introduce specialist ratings.

2.2.1.2 Live pop concerts and the like can produce similar sound levels at source to some of those coming from pubs and clubs. Open-air concerts are currently guided by the 'Code of Practice on Environmental Noise Control at Concerts' issued by the Noise Council (1995). This stipulates limits according to the number and category of event. The night-time criterion is that between 2300 and 0900, music should not be audible in any noise-sensitive room with an open window. Broadband levels are measured with 15-minute L_{Aeq} 1 m from the noise-sensitive façade from 0900 to 2300 and background levels by L_{A90} . Noise from indoor venues is limited to 5 dB over background. The Code of Practice (in a note on the guideline) states that an additional criterion may be needed to control low-frequency sound, and refers the

reader to (Griffiths et al., 1993). Griffiths et al. reported that 80 dB at the receiver in the 63 or 80 Hz octave bands was sufficient to cause disturbance. Noise limits from outdoor events are summarised in Table 1.

Concert days per year, per venue	Venue Category	Guidelines
1 – 3	Urban Stadia/arenas	MNL should not exceed 75dB(A) over a 15 minute period
1 – 3	Other Urban/rural venues	MNL should not exceed 65dB(A) over a 15 minute period
4 – 12	All venues	MNL should not exceed L_{A90} by more than 15dB over a 15 minute period

MNL (Music Noise Level) is the L_{Aeq} of the music measured at 1m from the façade between 0900 and 2300 hrs.

Table 1. Outdoor event noise limits in the Noise Council Code of Practice

2.2.2 Rating criteria – the inaudibility debate

2.2.2.1 BS 4142 and the Entertainment Noise CoP are examples of rating methods which use objective criteria, whether absolute or relative. An interesting attempt has been made, however, to promote a subjective criterion: that of inaudibility. Craik and Stirling (1986) reported survey results showing that music becomes annoying at levels just above the perception threshold. In a further paper Craik (2000) uses this survey result to criticise any method which allows the noise level to significantly exceed the background level. The 2000 article concludes by proposing subjective audibility as a criterion for rating amplified music. Williamson (2000) discusses the extensive experience of using inaudibility in Edinburgh and concludes that it presents no practical difficulty.

2.2.2.2 The case against inaudibility was made in the same pages (Bowdler, 2000; Dibble, 2000). Bowdler objects for two reasons: the criterion is unfair to the noise-maker because it depends on the background level at the complainant's house, and that the test is usually too severe. Dibble suggests that inaudibility is too variable (whose

inaudibility?) and points out that, if an A-weighted method like BS 4142 does not predict annoyance due to bass-heavy music, this is not surprising. He claims that, for music, L_{10} correlates well with perceived loudness. Dibble proposes a measurement method using a 1/3 octave analyser, with a criterion that L_{eq} should not exceed L_{90} in each band.

2.2.2.3 In another paper, Dibble (1997) repeats his criticism of the use of A-weighting to evaluate amplified music. He suggests that many complaints are due to low and poorly-characterised sound insulation at low frequencies. As well as moving away from A-weighted measures, he suggests that more research is needed on the prevalence of panel modes and airborne transmission generally at low frequencies.

2.2.3 Institute of Acoustics Working Group

2.2.3.1 In 1996, the Institute of Acoustics established a working group to produce guidance and criteria on the control of noise from pubs and clubs. The mandate of this group makes it the clear precursor for the current work. Unfortunately, the group was unable to produce a formal Code of Practice because industry representatives withdrew and because trials of proposed criteria produced inconclusive results (Hinton and Connor, 1999). Further, the IOA decided that the criteria were not robust enough to be published as such and so the only formal output from the working group was the Good Practice Guide (Institute of Acoustics, 2003). The annex containing the proposed criteria was, however, published in an article (Hinton and Somerville, 2003) to stimulate discussion. Following their withdrawal from the IOA group, the industry representatives have produced a guide to noise control for licensees (British Beer & Pub Association, 2003); this mirrors the IOA Good Practice Guide very closely.

2.2.3.2 In the IOA Annex, objective criteria are set out to ensure that two conditions are met: 1) that for premises where entertainment takes place on a regular basis, noise is inaudible inside noise sensitive premises at all times (It is said that the term 'regular' needs to be defined locally and with a regard to local expectations); 2) if entertainment takes place on a less frequent basis, the music should be inaudible inside noise sensitive property between the hours of 2300 and 0700. Noise is considered to be inaudible when it is at a sufficiently low level such that is not recognizable as emanating from the source in question and it does not alter the perception of the ambient noise environment that would prevail in the absence of the source in question. The IOA Annex expresses numerical limits in the form of Table 2.

Venue Where...	Suggested Regulations	Outcome if Criteria Met
Entertainment times/year* < 30	$L_{Aeq,15mins}$ (EN) should not exceed L_{A90} (WEN) by more than 5dB.	EN will generally be audible but not overly obtrusive inside the noise sensitive property
Entertainment times/year* > 30	L_{Aeq} (EN) should not exceed L_{A90} (WEN) by more than 5dB And the L_{10} (EN) should not exceed L_{90} (WEN) by more than 5dB in any 1/3 octave band between 40 and 160Hz.	EN will generally be audible but not overly obtrusive inside the noise sensitive property
Entertainment > once/week or continues beyond 2300hrs	L_{Aeq} (EN) should not exceed L_{A90} (WEN) And L_{10} (EN) should not exceed L_{90} (WEN) in any 1/3 octave band between 40 and 160Hz.	EN will be virtually inaudible inside noise sensitive property.

EN = Entertainment noise level, WEN = Representative background noise level without the entertainment noise, both measured 1m from the façade of the noise-sensitive premises.

* Not more than once a week and ends by 2300hrs.

Table 2. Limits suggested in the IOA Annex

2.2.3.3 Measurement advice was also offered with the annex. Some of the criteria provided do require the use of a 1/3 octave band real time spectrum analyzer with percentile and L_n capabilities, therefore additional advice/guidelines were offered for people without the necessary equipment or expertise. These are summarized below:

With the sound level meter set to 'fast'

- a. Measure the broadband $L_{Aeq,T}$ ($L_{Aeq,1min}$ suggested)
- b. Conduct an ear-eye estimation of the broadband L_{Amin}
- c. Make a series of estimated octave band un-weighted L_{max} carried out at the same time as a) using either the 63 or 125Hz octave band filter, as these encompass the main bass beat frequencies
- d. Make a series of ear-eye estimates of octave band L_{min} at the same time as b) and using the same octave band filter as c).

2.2.3.4 Using these measurements it is then possible to calculate the differences between L_{Aeq} when the entertainment noise is present and the L_{Amin} without the entertainment noise; and between the L_{max} of the bass component of the music and the L_{min} in the absence of the music. The maximum acceptable for either of these two differences is 6 or 7 dB for venues where entertainment takes place more than 30 times a year, not more than once a week and ends before 2300 hrs. For venues where entertainment takes place more than once a week or continues beyond 2300 hrs a stricter allowed level difference of 1 or 2 dB is given.

2.2.4 Current measurement and assessment practice

2.2.4.1 In the absence of a widely accepted measurement and assessment methodology for assessing noise from pubs and clubs, a variety of differing methodologies have been adopted by local authorities and consultants. The assessment methodologies generally fall into two groups, those that use an absolute criterion and those that use a comparative criterion. The two approaches are illustrated by examples from different local authority noise criteria for planning applications or Public Entertainment Licences. The local authorities that have objective criteria for music noise tend to be the exception (at about 15% of the total), and most local authorities

do not have any objective criteria for assessing music noise from new or existing developments.

2.2.5 Absolute Criteria

2.2.5.1 The authors have seen examples of consultants and some local authorities using A-weighted target values for music intrusion within residential properties, generally based on World Health Organisation values. However, it is generally considered inappropriate to use only A-weighted target levels for music noise intrusion, because the impact of the bass elements of the noise. A relatively common application of absolute criteria is to use Noise Rating Curves to provide a target level in design work. The attraction of using a NR Curve is that it provides an absolute limit value in each octave band, whereas using an A-weighted level means that for a given dB(A) value, the allowable level of low frequency noise depends on the noise level at other frequencies. For a situation where there is little mid and high frequency noise transmission, a higher level of bass will be allowable without exceeding the dB(A) limit.

2.2.5.2 An example of the absolute limit type of approach is given below. The extract is taken from standard planning conditions used by Sheffield City Council for city centre planning applications

Before the use of the building for Food and Drink purposes (Use Class A3) is commenced a scheme of sound attenuation works shall have been installed and thereafter retained. Such a scheme of works shall ...be capable of restricting noise breakout from Class A3 use to the flats above to levels complying with the following:

Bedrooms Noise Rating Curve NR25 (2300 to 0700 hours)

Living Rooms Noise Rating Curve NR35 (0700 to 2300 hours)

(Noise Rating Curves shall be measured as a 15 minute linear Leq at the octave band centre frequencies 31.5 Hz to 8 kHz)

2.2.5.3 The use of NR Curve design criteria is commonly used by a number of consultants, particularly when providing advice on new developments. For a new-build development, it is not possible to accurately assess future ambient noise levels within the quietest parts of the building in order to provide a baseline for a comparative criterion. The use of appropriate NR Curve criteria enables noise mitigation measures to be specified. There is a considerable variety of noise indices used for assessment against the NR Curve, with L_{eq} , L_{max} and L_{10} indices all having been used. In all cases, though, compliance with an NR curve should mean that the noise spectrum does not exceed the curve in any frequency band.

2.2.6 Comparative Criteria

2.2.6.1 These criteria tend to be used more for assessing the potential impact of existing entertainment premises on proposed new residential premises, or setting acceptable levels for existing entertainment premises.

2.2.6.2 The first example illustrated is produced by Kirklees Metropolitan Borough Council. Their guidelines for new noise sensitive premises near to existing places of entertainment contains the following :

Developers should show that noise from the place of entertainment shall not be audible inside habitable rooms of the new development. Inaudibility shall be defined as :

Zero increase in the $L_{Aeq,1 min}$ (music playing) over the background L_{A90} (music off) and

Zero increase in the $L_{10,T}$ vs $L_{90,T}$ exceedance in each 1/3 octave band between 40Hz and 160 Hz.

These figures equate to exceedances of 5 dB outside an open window.

2.2.6.3 The wording of the above condition was taken from a draft version of the Good Practice Guide (Institute of Acoustics, 2003).

2.2.6.4 Another example of this type of criterion is the Standard Public Entertainment Licence Noise Conditions used by the London Borough of Camden. This contains the following requirements.

After 2300hrs applicable to all entertainment premises

- 1. The noise climate of the surrounding area shall be protected such that the A-weighted equivalent continuous noise level (LA_{eq}) emanating from the application site, as measured 1 metre from any facade of any noise sensitive premises over any 5 minute period with entertainment taking place shall not increase by more than **3dB** as compared to the same measure, from the same position, and over a comparable period, with no entertainment taking place.*
- 2. The unweighted equivalent noise level (L_{eq}) in the 63Hz Octave band, measured using the "fast" time constant, inside any living room of any noise sensitive premises, with the windows open or closed, over any 5 minute period with entertainment taking place, should show **NO** increase as compared to the same measure, from the same location(s), and over a comparable period, with no entertainment taking place.*
- 3. No sound emanating from the establishment should be audible within any noise sensitive premises between 23.00 and 07.00 hours.*

2.2.7 Design Targets

2.2.7.1 The above are examples of criteria used by local authorities for enforcement purposes. At the design stage of projects, consultants are often required to provide advice on the level of sound insulation required within a building. Sometimes there

may be contractual requirements or detailed planning conditions to meet, but often the brief is that the consultant should ensure that there will not be a noise problem, and the consultant is required to propose a suitable criterion. As mentioned previously, Noise Rating Curves are used by a number of consultants. Noise Rating Curves 20 and 25 are used by some when assessing noise impact for residential properties at night, although other Noise Rating Curves have been used on some projects. The noise index used for specifying the Noise Rating Curve, whether L_{eq} , L_{10} or L_{max} , is variable, and obviously affects the strictness of the criterion.

2.2.7.2 The other approach used at the design stage is to use the comparative approach, although this generally cannot be used if the noise source and receivers are within the new building. Where this approach is possible, it is usual for existing octave band L_{90} values to be measured. Attenuation is then designed to ensure that octave band music noise breakout from the new development does not exceed the measured existing octave band L_{90} values. Once again, the practice of assessing the music breakout varies with L_{max} , L_{eq} or L_{10} indices used by different organisations as the parameter not to exceed the background levels.

2.3 International response to the problem

2.3.1 Codes for entertainment noise

2.3.1.1 Regulations applying to pub and club noise in ten European countries are summarised and compared by (Desarnaulds et al., 2003). The regulations vary widely between countries but there are some observable trends and groups in both the types of criteria (e.g. level just outside the club), the methods of expressing them (e.g. L_{Aeq}) and the limit values allowed (e.g. 3 dB above background). There are three main types of criteria: levels at a noise-sensitive property, levels outside the noise-making property and sound insulation requirements where both source and

receiver are part of the same building. Most of the ten countries use more than one of the three types; France and Italy use all three. Criteria for allowable levels inside or outside the noise-sensitive property in eight countries are summarised in Table 3.

Country	Text	Descriptor	Requirements inside, dB(A)	Requirements outside, dB(A)
Switzerland*	DEP	$L_{Aeq(10s)}$	24	34
Germany	VDI 2058B11	L_{Aeq} L_{AFmax}	25 35	40 – 45 (DIN 18005)
France	Recommendation CNB (1993)	L_{Aeq}	22	-
Italy	DPCM 14/11/97 No280	L_{Aeq} (1 min)	25	40 (open window)
Norway	NS 8175-1997	L_{AFmax}	22 – 37	25 – 45
Netherlands	Catering order (1998)	L_{Aeq} (19-07) L_{AFmax}	25 45	40 60
Sweden	SOSFS 1996:7	L_{Aeq}	25	-
United Kingdom	Code of practice concerts**	L_{Aeq} (15mins)		75 (stadia) 65 (other)

* Exploitation after 1985, night time (22-7h) downtime; ** Max. 3 open air concerts/year.

Table 3. European limits at the noise-sensitive property, after (Desarnaulds et al., 2003).

2.3.1.2 In five countries, there are also criteria for maximum levels outside the noise-making building, referred as ‘emergence’ by Desarnaulds et al and summarised in Table 4.

2.3.1.3 Finally, six countries also specify sound insulation requirements. These vary widely, but all are based on weighted airborne criteria – typically $D_{nT,w}$ with or without C_{tr} . In France (Decret 98-1143), D_{nT} is also specified in octave bands, with stringent targets of 66 or 75 dB in the 125 or 250 Hz bands for an emission level of 99 dB in those bands.

2.3.1.4 There are several interesting features of this comparison:

- The most significant feature is that all are A-weighted. The French sound insulation targets seem to be the only non-UK European regulation which specifically addresses low-frequency annoyance. Desarnaulds et al do not

comment on this, but using A-weighting to assess noise which includes amplified music would seem to be a problem in the light of UK experience.

- Inside the noise-sensitive property, limits are about 25 dB(A), outside about 40 dB(A)
- L_{Aeq} levels outside the club are limited to about 3 dB over background.

Country	Text	Descriptor, music	Descriptor, background noise	Requirement on emergence, dB(A)
France*	Decret 98-1143	L_{Aeq} (1h)	L_{Aeq}	< 3
Italy	DPCM 280 14/11/97	L_{Aeq} (1 min)	L_{Aeq} (1 min)	< 3
Netherlands	Catering order 1998	L_{Aeq} (19-7h)	L_{A95-}	< 0
Portugal	Noise code 2000	L_r (22-7h) **	L_{Aeq}	≤ 3
UK***	Code of practice, concerts	L_{Aeq} (15 min)	L_{A90} (4h)	< 5

Limit for each octave band 125Hz to 4kHz (measurement method: NF s 31-010); ** $L_r = L_{Aeq}$ (music + background noise) + K_L (tonal and impulsive 0,3 or 6) – K_d (duration, 0 to 4); *** Maximum 30 indoor events/venue/year

Table 4. European limits outside the pub/club, after (Desarnaulds et al., 2003).

2.3.2 Codes for low-frequency noise

2.3.2.1 Besides standards aimed specifically at pub and club noise, there are also codes regulating general low-frequency noise in several European countries. In general, these do not deal specifically with noise from pubs and clubs, but they may be applicable where music noise contains strong low frequency components. Low-frequency assessment methods were recently surveyed extensively by Leventhall (2003) for DEFRA. This work was followed by Moorhouse et al. (2004), who aimed to develop a UK rating method. The Moorhouse report includes an analysis of European practice in regulating low frequencies. Criteria already in use in Germany, Sweden, Denmark, the Netherlands and Poland were reviewed and compared. These work by comparing the third-octave spectrum of the noise to a reference curve. If the spectrum exceeds the curve, some subjective reaction is predicted and this is usually

labelled 'disturbance'. The low-frequency methods are similar to the way some UK consultants use Noise Rating curves. The frequency range covered by these methods is generally small, but it does extend into the lower range of amplified music. For example, the German standard (DIN45680, 1997) covers 8-100 Hz. In another study by (McCullough, 2004), Environmental Health Officers made subjective ratings of real pub and club noise. Field recordings of the noise were evaluated according to several standards and good correlations were found when DIN 45680 was used.

2.3.2.2 Based on laboratory experiments with real and simulated low-frequency noise, Moorhouse et al. derived a proposal for a UK low-frequency noise criterion. Their test sounds were typical of the kind of noise complained of by UK low-frequency noise sufferers and so did not include music. Nevertheless, following the promising results of McCulloch, both DIN 45680 and the proposed UK variant should be investigated further as assessment techniques for pub and club noise. The Moorhouse proposed method is as follows:

Record L_{eq} , L_{10} and L_{90} in the third octave bands between 10Hz and 160Hz.

If the L_{eq} , taken over a time when the noise is said to be present, exceeds the values in Table 5 it may indicate a source of LFN that could cause disturbance. If the noise occurs only during the day then 5dB relaxation may be applied to all third octave bands. If the noise is steady then a 5dB relaxation may be applied to all third octave bands. A noise is considered steady if either of the conditions a. or b. below is met:

a. $L_{10}-L_{90} < 5dB$

b. the rate of change of sound pressure level (Fast time weighting) is less than 10dB per second where the parameters are evaluated in the third octave band which exceeds the reference curve values (Table 5) by the greatest margin.

1/3 octave band frequency (Hz)	10	12.5	16	20	25	31.5	40	50	63	80	100	125	160
Unweighted L_{eq} (dB)	95	87	79	71	63	56	49	43	42	40	38	36	34

Table 5. Proposed reference curve for evaluating low-frequency noise, after (Moorhouse et al., 2004).

2.3.3 Non-UK experience

2.3.3.1 Noise from ‘rave’ parties in Hong Kong is assessed by Wong et al. (2001). They describe their experience of using L_{Aeq} to predict annoyance. Like Dibble (2000) they find that, even when the music does not increase L_{Aeq} , people are still disturbed. Also like Dibble, they attribute this annoyance primarily to modulated low-frequency sound. Regulations in force in Hong Kong at the time are given, and they vary depending on whether the event takes place in an indoor or outdoor venue. Different levels for both airborne noise and structure-borne noise are also mentioned in the criteria, though ‘inaudibility’ remains undefined:

	Indoor Venue	Outdoor Venue
Day and Evening (0700hrs – 2300hrs)	60 – 70dB(A), airborne 50 – 60dB(A), structure-borne	$L_{eq15min}$ at façade $>L_{eq5min}$ for background +10dB(A)
Night (2300hrs – 0700hrs)	Inaudible inside the noise sensitive premises	Inaudible inside the noise sensitive premises

Table 6. Hong Kong noise limits for entertainment noise, after (Wong et al., 2001).

2.4 Psychoacoustic Investigations

2.4.1.1 The bulk of the literature relating to noise from pub and clubs is very applied – relating directly to field measurements of real noise. Separate from this, there is also a large literature on laboratory-based tests of human response to noise. Most of these psychoacoustic investigations are not directly applicable to pub and club noise because they deal with signals which are different from amplified entertainment

noise in some respect. A generalised 'lab' form of pub and club noise would have the following characteristics: low frequency, perhaps pink noise rather than sinusoidal, amplitude modulated (but at very low frequency – 2 Hz or so). There are few papers dealing with annoyance due to such a specific signal. One is by Kuwano et al. (1999), who asked subjects to rate loudness, noisiness and annoyance for several artificial signals, including 4 Hz amplitude-modulated pink noise, band-pass-filtered between 20 and 1000 Hz. They reported that subjective loudness, annoyance and noisiness were well correlated. Several objective measures from the sound quality literature were tried (roughness, sharpness and so on) and the best correlation with the subjective response was given by loudness level according to ISO 532 (1975). In another study, Bradley (1994) investigated annoyance caused by low-frequency amplitude-modulated sounds as part of a project on rumble in ventilation systems. He found that annoyance was best predicted using a combination of level and modulation strength.

2.5 Candidate rating methods

2.5.1.1 Having surveyed the existing rating methods it is apparent that there is no strong consensus among academics and practitioners. The group of methods considered for validation should therefore be drawn quite broadly. The objective criteria tested should certainly include: the IOA working group annex, a Noise Rating curve method, the WHO absolute L_{Aeq} values, at least one low-frequency noise code and a subjective audibility test. Based on the literature reviewed, a recommended list of criteria appears in Table 7 below. Measurement period should be regarded as an additional parameter for all the measurements – for example, one minute, fifteen minutes, etc.

Name	Parameter	Type
IoA working group annex	L_{Aeq} vs L_{A90} plus L_{10} vs L_{90} in 40-160 Hz 1/3 octave bands	Relative
BS 4142 / Noise Act 1996	L_{Aeq} vs. background (L_{A90} , L_{A99} , etc.)	Relative
Noise Rating curve	1/3 octave (L_{eq} , L_{10} or L_{max}) vs. NR curve	Absolute
Absolute L_{Aeq}	L_{Aeq}	Absolute
DIN 45680 / Moorhouse	10 – 160 Hz 1/3 octave L_{eq} vs reference curve	Absolute
Inaudibility	Subjective	Relative

Table 7. Schedule of proposed criteria for validation.

3 Rationale for developing a new rating method

3.1 Given the evidence reviewed above, it seems reasonable to think that an optimal method for rating entertainment noise from pubs and clubs can be developed. The optimal method should seek to adequately predict the subjective response of people exposed to pub and club noise. At this stage, it is not possible to specify the optimal method. Instead, we can specify the experimental procedure by which it can be developed and this is done in the rest of this report. It is possible to state some likely features of the final rating method. The method must take account of the significant physical features of the noise. These will certainly include level (probably by A-weighted L_{eq}). Almost certainly, some form of measure of bass prominence will be needed, perhaps based on L_{eq} in 63 and 125 Hz octave bands. The method may also need to take account of temporal features, like bass beat, perhaps evaluated by $L_{10} - L_{90}$ in a low-frequency octave band. It is also not yet clear if a measurement of background noise is essential for adequate prediction of the listener response. Finally, the assessment method should be as simple as possible without sacrificing accuracy.

3.2 The only sensible way to develop an optimal rating method is by constructing tests in which listeners are exposed to pub and club noise and are asked to subjectively rate the noise in some way (annoyance, loudness or audibility, for example). An audio recording of the noise can then be analysed for the kinds of physical features identified above. If a computer is used to do this, a large number of objective rating schemes (and variants of them) can be compared. The result of each objective rating scheme can then be compared to the subjective responses. The extent to which a particular rating scheme matches the subjective responses can be quantified with statistical methods and the best rating scheme identified. The design of this validation process, particularly the subjective measurements, involves making decisions on many factors. These are considered below, in section four.

4 Validation test design

4.1 Field versus laboratory testing

4.1.1 Laboratory testing produces more reliable judgements from subjects and gives more control over the sound fields being heard, but inevitably lacks some of the context in which the original sound might be heard by a particular listener. A proper investigation of the physical features of pub and club noise can be carried out much more easily in the laboratory, because sounds can be altered to vary one physical parameter at a time and parameter values can be set precisely. It is also the only way to accurately quantify the difference in response from a group of listeners exposed to exactly the same sound. (The variance across subjects gives a valuable indication of the error to be expected when using the final rating method to predict listener response to noise from a pub.) Finally, it is easier to build confidence in lab tests

because they are more easily refined through pilot tests. Therefore, the main plank of the validation programme should be based on laboratory tests.

- 4.1.2 The artificiality of laboratory testing can be reduced by appropriate instruction to the subject (for example, "Imagine you are sitting quietly in your living room during the day.") However, it is very hard to recreate the experience of a listener disturbed by a noise in their own home. In particular, noise sufferers often speak of a feeling of being invaded because they identify closely with their own private physical space. It may well be that subjective response to a physical feature of the noise (e.g. bass beat) is different in the listener's own home. Field studies also present a good opportunity for capturing qualitative data from a subject. When allowed to express a view in their own words, subjects often provide the experimenter with very valuable contextual information about their experience of the noise. This can help to provide a deeper understanding of the results of controlled experiments conducted in the lab, and may help in designing the lab tests to reflect the listener's real experience. In the experience of the authors, this sort of narrative account is usually much richer when obtained in the listener's home. It is therefore suggested that the laboratory validation should be supplemented by a programme of field case studies.

4.2 Laboratory psychometric method

- 4.2.1 The term psychometric method refers to the way in which a task is presented to the subject and the response obtained from them. For the tests envisaged here, there are two psychometric methods that would be appropriate: the method of limits and the method of adjustment. In either case, some factor of the sound field, such as its level, is to be varied. In the method of limits a number of fixed sounds is played to the subject, who is asked to give each one a 'score' to indicate how much it annoys them,

how pleasant they find it, etc. In the method of adjustment, the variable under investigation is adjusted until it achieves a certain response from the subject, for example it is adjusted so that they can just hear it (this is how hearing thresholds are tested). Either the subject or the experimenter could make the adjustments. In both methods the aim is to find a correlation between an objective quantity (as measured by the acoustic instrumentation) and a subjective quantity (as indicated by the subjects).

4.2.2 The method of limits is the best-established method for measuring reactions to environmental noise. It represents the field situation where the listener usually has no control over the noise. However, it has a significant disadvantage of inefficiency: many fixed test sounds must be created, with the factor under test increasing slightly each time. An *a priori* decision must be made on an appropriate size for the step between each test sound. This method is often used where the variable investigated is complex and cannot easily be continuously adjusted (for example, clarity in a concert hall (Cox et al., 1993)).

4.2.3 The method of adjustment is well-suited to tests where the principle variable of interest is level or intensity. This is true of pub and club noise. Listeners could be asked to adjust the noise until it reached a 'just acceptable' level. The effects of secondary factors like bass prominence or fluctuation could be determined by investigating their effect on the just acceptable level. This method also has the advantage that it allows listeners to take control of the process. It has been suggested that if listeners are more comfortable with the test, they are likely to give more accurate results, more quickly (Barron, 1971). As well as being quicker, the method of adjustment is also simpler because it gives the subjective threshold directly, reducing the statistical analysis needed.

4.3 Laboratory sound reproduction

4.3.1 There are several ways of presenting sounds to subjects that could be used here.

Headphones, listening rooms, anechoic rooms and ordinary rooms will be briefly considered. Headphone reproduction has the advantage of convenience. Signals can come from a small tape recorder or portable computer and any reasonably quiet room used for reproduction. The researcher can come to the subject, which might increase participation rates. The main problem is that gross spatial reproduction errors are likely to affect at least some subjects. If mono or stereo recordings are used, then it is likely that the sound source will appear to a subject to be positioned inside his own head. Binaural recording improves on this by making recordings designed for headphone reproduction. A dummy head with microphones at the ear entrances is used to make the recording. Headphones accurately reproduce the signals arriving at the ears of the dummy head. However, some listeners will have different head and ear shapes to the dummy head and this often results in front-back reversals, where sound sources in front of the dummy head are perceived by the subject to be behind them. This project requires consistent rather than accurately spatialised sound reproduction, so headphone techniques are at a disadvantage.

4.3.2 If loudspeakers are used, then spatial artefacts can be minimised. Multiple loudspeakers could be used with mono recordings to give a subjective experience of a diffuse source. This should help subjects to concentrate on the features of the noise rather than its location in space. However, the room used for loudspeaker reproduction is important. An anechoic chamber could be used to attempt to minimise any coloration from the room. This has the disadvantage of sounding unnatural (especially to lay listeners) and requiring a large number of loudspeakers to achieve a

diffuse source. Alternatively, a 'real' living room could be used. This might allow a more realistic context for listener judgements, at the expense of experimental reproducibility.

- 4.3.3 A good compromise between these two extreme rooms would be to use a standard listening room. These are designed to sound 'natural' with an appropriate reverberation for their size, but the reverberation time must conform to a strict target. It is important that the room used is well characterised, this helps to make the derived rating method more dependable.

4.4 Laboratory variables

- 4.4.1 There are a large number of physical variables which could be evaluated for pub and club noise and which might play a role in shaping subjective response. Ideally, one would measure the effect of each one in subjective tests. Psychoacoustic tests are time-consuming, expensive, difficult (especially for the subjects) and prone to error, so the number of variables investigated must be reduced to a small number. The first variable of interest must be the overall level of the sound. Most of the candidate rating methods in Table 7 use L_{Aeq} so one test should be to vary this. The second variable should be programme material. Entertainment noise carries information and varies widely in content (speech/music, type of music and so on). The test sounds must represent a realistic range and it is also of interest to find how subjective reaction might vary for different content reproduced at the same level. (This variance will form part of the error margin of the final optimised rating method.) Several existing rating methods compare the noise level to the background level and this should be examined in the laboratory. Recordings of real background noise could be analysed and generalised to make shaped noise spectra. The pub noise would then be played to

subjects under various conditions of background noise. The primary variable of interest would be the level of the background noise, but other characteristics might also be investigated if resources allow.

4.4.2 Entertainment noise often has prominent low-frequency content and this should be characterised by a third variable. If the L_{Aeq} is held constant, what is the subjective effect of varying the level of a low-frequency octave band? If resources permit, the effect of fluctuation rate (bass beat) might also be studied. These variables will probably require taking real recordings of pub and club noise and altering them in the lab.

4.5 Subjective criteria

4.5.1 The exact task of the listener in the laboratory must be considered carefully. This amounts to deciding what the final rating method is designed to predict. Annoyance, audibility and acceptability are three of the possible choices. The use of annoyance as a measure has a long history in environmental acoustics. It has the advantage of denoting what seems to be the principal reaction to unwanted sound. Unfortunately, its meaning seems to vary widely between individuals, so that a large subject group is needed for meaningful results and derived annoyance scales are sometimes found not to have wide applicability to cases outside the project that developed them (Schultz, 1982).

4.5.2 Audibility has the advantage of simplicity. Craik and Stirling (1986) also report that annoyance increases steeply with level above threshold, so audibility is a more reliable measure than annoyance. Given its current application as a rating criterion in Edinburgh, it should be investigated in the proposed programme. Of course, audiometry thresholds vary quite widely between individuals at low frequencies so

audibility may not provide the closest correlation with objective data across many recordings. Inaudibility is also seen by some commentators as too strict a criterion.

- 4.5.3 The term 'acceptability' can be viewed as a compromise between annoyance and audibility. Unlike annoyance, it does not require defining a semantic scale ("how annoyed?") and it should be easier to achieve a consensus understanding of the term among subjects. It probably represents a more objective test of noise than inaudibility. Crucially, it also preserves the context in which the noise is to be judged, so we might ask subjects to adjust the noise to a just acceptable level for a daytime living room. We would expect a lower acceptable threshold for the same noise in a night-time bedroom. The concept can be extended to cover a list of tasks into which the noise might intrude – for example, reading a book during the day, watching television during the evening, getting ready for bed, or perhaps even a daytime domestic chore. Context can also be used to deal with the frequency of events, since a given noise level may be acceptable for a monthly event but not for a daily one. Comparing thresholds of acceptability and audibility would also be informative, and could easily be done with the method of adjustment.

4.6 Subjects

- 4.6.1 The population targeted by this study are all UK adults who experience pub and club noise. The subject sample used in the tests should resemble this population as closely as is reasonably practical. Children are excluded not because they do not experience the noise but because the difficulties (ethical and methodological) involved in experimenting on them seem to outweigh the advantages of including them. The subjects should therefore cover a wide age range, be evenly distributed across gender

and be untrained listeners. It is probably not worth stratifying the sample by class, ethnicity, or geographic location.

- 4.6.2 The number of subjects required is perhaps the hardest aspect of the programme to quantify. We expect the test results to be approximately normally distributed among the subjects so that the variance (error) decreases as the number of subjects is increased. We would like to be able to specify n so that the variance is small enough for correlation with objective measurement to be successful, and for the significance of the factors like music type to be determined. Unfortunately, it is not possible to do this analytically and we must use previous test programmes as an empirical guide. For example, sixteen untrained subjects have been found to give a good balance between accuracy and practicality for hearing defender tests at Salford. Although the measurements proposed here are not the same as the audiometry performed to test hearing defenders, it is expected that the variance between subjects will be similar, and so the test group could be about the same size.

4.7 Statistics

- 4.7.1 There are two main aspects of the test design. The first is to find the rating method that best explains the subjective results. This can be done by correlation applied to scatter graphs of the data. The second aspect of the test is to quantify the effect of the variables: music type, bass prominence, bass fluctuation, day/night context, across-subjects and within-subject. If the tests vary just one factor at a time, then a simple analysis of variance (ANOVA) can determine the statistical significance of each factor. Of course, some of the factors may interact with one another. For example, if the factors 'subject' and 'music type' interact, then some subjects will find music A more acceptable than music B, while another group of subjects feels the other way

round. A correctly designed ANOVA can identify and measure the statistical significance of any such interactions. However, the number of factors now stands at seven: sound level, background level, subject, context (including audibility), music type, bass level and bass beat. Each factor will take several values. It will probably be uneconomic to test every combination of values, and so the test programme must be carefully designed to cover enough combinations of factors to allow several 'mini-ANOVAs'.

4.8 Field measurements

- 4.8.1 The objectives of the field studies are to provide listener context for the laboratory studies and a convenient source of (some of the) recorded entertainment noise for the lab work. These objectives are similar to those of the successful DEFRA low-frequency noise project (Moorhouse et al., 2004) and so a similar methodology could be adopted here. These objectives do not require anything approaching a comprehensive UK survey; ten to twenty cases should be sufficient. Case studies could be identified via EHOs and computer-based recording systems left unattended in a complainant's home for several days. (Unattended systems would record only level data, not audio.)
- 4.8.2 Subjective response in the field could be captured in a wide variety of ways. Past studies have used combinations of questionnaire, diary, interview and focus group, for example (Davies et al., 2001). The contextual information needed here is best obtained by qualitative means and the relatively small number of cases envisaged would allow a semi-structured interview to be used. This technique attempts to combine the advantages of objectivity, in that the interview structure is carefully designed beforehand, and adaptability, in that the interviewer can follow up and probe

points of interest. For example, an interviewee may be asked a standard question about the features of the noise which are most disturbing. Their response might include a feature that the research team had not previously identified. On-the-spot clarification of this (e.g., why is it disturbing?) would be valuable and could help steer the design of the main laboratory tests.

4.9 Measurement position

4.9.1 The psychoacoustic tests described above envisage a straightforward situation where the noise is recorded inside a complainant's dwelling. The sounds played to participants in the laboratory would be designed to simulate this, and thus the rating method would predict subjective reaction to indoor levels. However, there are many applications where it is difficult to record or measure noise inside a dwelling. A correction term should therefore be available to the final rating scheme if measurements have to be made outside a house. This correction term could be derived from a survey of airborne transmission data in the field. It is likely that the correction could be based on existing transmission data in the literature.

5 Conclusion

5.1 Noise from pubs and clubs has been identified as a significant problem for some time by several groups of observers. Reports of annoyance appear in several media, though peer-reviewed reports of studies are surprisingly rare. Nevertheless, there is considerable anecdotal evidence from acoustic consultants and local authorities to show that the effects of entertainment noise are widespread. Measured levels within pubs and clubs are certainly high enough for problems to be expected. Many bars playing music had noise levels of 90 – 95 dB L_{Aeq} during busy periods, with levels of up to 115 dB L_{eq}

in the 63 Hz octave band and 110 dB L_{eq} in the 125 Hz octave band recorded on the dance floors of night clubs.

- 5.2 Reports from practitioners also indicate that there is considerable variation around the UK in assessment method and criteria. A typical criterion in use in the UK would specify a limit on L_{Aeq} and another L_{eq} limit on one or two specific low-frequency octave bands. Some local authorities use absolute criteria, often expressed as L_{Aeq} , while others use relative criteria, and set limits for the noise L_{Aeq} exceeding the background level. Another absolute criterion popular with consultants is a Noise Rating curve, to which L_{eq} , L_{10} or L_{max} values might be compared.
- 5.3 Outside the UK, most countries rely on criteria based on L_{Aeq} , though it is noted that many of the L_{Aeq} limits inside noise-sensitive premises are very low. Germany, Sweden, Denmark, the Netherlands and Poland have criteria for assessing low-frequency environmental noise which might be usefully applied to amplified music noise from pubs and clubs.
- 5.4 There is a clear need for the UK to adopt a single rigorous method for assessing noise from pubs and clubs. The validation process should centre on laboratory psychoacoustic tests because the many variables involved in perception can be adequately controlled. The laboratory work should be supported by field investigations. The field measurements will act as a source of noise recordings and also provide listener context via semi-structured interviews.
- 5.5 The laboratory subjective tests should examine the effect of several factors on listener perception: overall noise level, background noise level, subject differences, music type, bass boost, bass beat and context (day/night/audibility).
- 5.6 This exploration of the factors governing perception of the noise is crucial to developing confidence that any new rating method is indeed optimal. The laboratory

sounds should be rated by at least the shortlist of existing assessment methods listed in Table 7. The results should then be compared to the subjective results and the best rating schemes modified to optimise the match. This scheme will allow the development of validated assessment criteria and measurement methods for assessing the noise from pubs and clubs for use by Environmental Health Officers (EHOs) and others.

References

Arnot, C. (2002). 'Sleepless in Birmingham; A new breed of city dweller bought into a dream - but they didn't take to the soundtrack, says Chris Arnot,' *Sunday Telegraph*, August 25, London.

Barron, M. (1971). 'The subjective effects of first reflections in concert halls - the need for lateral reflections,' *J. Sound & Vib.* **15**: 475-494.

Bone, V. (2004). 'Pub puts a Halt to rock din,' *The Mirror*, 2 November, London.

Bowdler, D. (2000). 'Inaudibility and nuisance,' *Acoustics Bulletin* **25**(4) (2000/07/): 12-13.

Bradley, J. S. (1994). 'Annoyance Caused by Constant-Amplitude and Amplitude-Modulated Sounds Containing Rumble,' *Noise Control Engineering Journal* **42**(6) (Nov-Dec): 203-208.

British Beer & Pub Association (2003). *Licensed Property: Noise Control*, British Beer & Pub Association, London.

Bromley, R. D. F., A. R. Tallon and C. J. Thomas (2003). 'Disaggregating the space - time layers of city-centre activities and their users,' *Environment and Planning A* **35**(10): 1831-1851.

BS4142: 1997, 'Method for rating industrial noise affecting mixed residential and industrial areas'

BS8223: 1999, 'Sound Insulation and Noise Reduction for Buildings - Code of Practice'

Chase, J. and M. Healey (1995). 'The Spatial Externality Effects of Football-Matches and Rock-Concerts - the Case of Portman-Road-Stadium, Ipswich, Suffolk,' *Applied Geography* **15**(1): 18-34.

Cox, T. J., W. J. Davies and Y. W. Lam (1993). 'The Sensitivity of Listeners to Early Sound Field Changes in Auditoriums,' *Acustica* **79**(1) (Jul-Aug): 27-41.

Craik, R. J. M. (2000). 'Inaudibility as a Criterion for Assessing Amplified Music,' *Acoustics Bulletin* (July/Aug 2000): 9 - 21.

Craik, R. J. M. and J. R. Stirling (1986). 'Amplified Music as a Noise Nuisance,' *Applied Acoustics* **19**(5): 335-346.

Davies, W. J., T. J. Cox, A. T. Kearon, B. J. Longhurst and C. L. Webb (2001). 'Hearing loss in the built environment: The experience of elderly people,' *Acustica* **87**(5) (Sep-Oct): 610-616.

Desarnaulds, V., G. Monay and A. P. Carvalho (2003). 'Noise from amplified music played in discotheques, pubs and clubs - A review of some national regulations,' *Acta Acustica* **89**(SUPP): 125.

Dibble, K. (1997). 'Low frequency noise propagation from modern music making,' *Journal of Low Frequency Noise, Vibration and Active Control* **16**(1) (1997//): 1-12.

Dibble, K. (2000). 'Inaudibility-the argument against,' *Acoustics Bulletin* **25**(4) (2000/07//): 15-21.

DIN45680: 1997, 'Messungen und Bewertung Tieffrequenter Gerauscheinmissionen in der Nachbarschaft. Beiblatt I Hinweise zur Beurteilung bei gewerblichen Anlagen.

(Measurements and Evaluation of Low-Frequency Noise Imissions. Supplement 1 Reference to the Evaluation at Commercial Plants.)'

Griffiths, J. E. T., J. Staunton and S. Kamath (1993). 'A study of low frequency sound from pop concerts,' *Proc. Inst. of Acoustics* **15**(7).

Hampstead & Highgate Express (2004). 'Bar hits back over £44,000 noise fine,' *Hampstead & Highgate Express*, 8 November, London.

Hinton, J. and D. Connor (1999). 'Noise from pubs and clubs,' *Acoustics Bulletin* **24**(1): 34.

Hinton, J. and A. Somerville (2003). 'Good Practice Guide on the Control of Noise from Pubs and Clubs - Criteria and Measurement Guidelines,' *Acoustics Bulletin* **28**(6) (Nov/Dec 2003): 12 - 15.

Institute of Acoustics (2003). *Good Practice Guide on the Control of Noise from Pubs and Clubs*, January, Institute of Acoustics (UK),

ISO532: 1975, 'Acoustics - Method for calculating loudness level'

Kuwano, S., H. Fastl and S. Namba (1999). 'Loudness, Annoyance and Unpleasantness of Amplitude Modulated Sounds.' *Internoise 99*, Fort Lauderdale, Florida.

Leventhall, G. (2003). *A Review of Published Research on Low Frequency Noise and its Effects*, Department for Environment Food and Rural Affairs, London.

McCullough, P. (2004). *A practical evaluation of objective noise criteria used for the assessment of disturbance caused by entertainment music*, University of Ulster.

MCM Research Ltd (2003). *Implications for noise disturbance arising from the liberalisation of licensing laws*, October, Department for Environment Food and Rural Affairs,,

Moorhouse, A., D. Waddington and M. Adams (2004). *Draft report: Proposed criteria for the assessment of low frequency noise disturbance*, July, Department for Environment Food and Rural Affairs,

Schultz, T. J. (1982). *Community Noise Rating*. Barking, Applied Science Publishers.

The Mirror (2002). 'Pub noise pair's £1k,' *The Mirror*, April 4, London.

The Noise Council (1995). Code of Practice on Environmental Noise Control at Concerts.

Williamson, S. (2000). 'Inaudibility in practice,' *Acoustics Bulletin* (July/August 2000): 11-12.

Wong, S. W. H., N. Y. H. Lee, W. K. Szeto and A. C. K. Wong (2001). 'Is Noise from "Rave" Parties Uncontrollable?' *The 8th International Congress on Sound and Vibration*, Hong Kong.

00014

Able Acoustics

MR W LIM

BANK BAR, FOLKESTONE

ACOUSTIC REVIEW

SEPTEMBER 2017

Able Acoustics
MR W LIM
BANK BAR, FOLKESTONE
ACOUSTIC REVIEW
SEPTEMBER 2017

This report has been prepared by Able Acoustics Limited for Mr W Lim in accordance with the terms of the proposal using all reasonable skill and care. The contents of this document must not be copied or reproduced in whole or in part without the written consent of Able Acoustics Limited.

Able Acoustics Limited accepts no responsibility for any data provided by other bodies nor any liability arising from the use by persons other than the addressee of this report, of the data or the opinions contained herein.

<i>P1263/01</i>	<i>September 2017</i>	<i>Position</i>	<i>Signature</i>
<i>Prepared By:</i>	<i>Edward Crofton-Martin</i>	<i>Principal Acoustic Consultant</i>	
<i>Checked By:</i>	<i>Edward Crofton-Martin</i>	<i>Principal Acoustic Consultant</i>	
<i>Approved By:</i>	<i>Edward Crofton-Martin</i>	<i>Principal Acoustic Consultant</i>	

Able Acoustics Limited
Unit 20, Connect 10
Foster Road
Ashford
Kent
TN24 0FE
England
www.ableacoustics.com
info@ableacoustics.com

CONTENTS

1. INTRODUCTION	1
1.1 Introduction.....	1
2. NOISE UNITS AND STANDARDS.....	2
2.1 General.....	2
2.2 Noise Standards and Guidance	3
3. SITE LAYOUT AND ENVIRONMENT	5
3.1 Site Layout.....	5
3.2 Site History (Nuisance - Noise)	5
4. SITE VISIT AND SUMMARY MEASUREMENTS.....	6
4.1 General.....	6
4.2 Site visit – Observations.....	6
4.3 Attended Measurements	6
5. RESULTS	8
5.1 Noise Measurements	8
6. Discussion	9
6.1 General.....	9
6.2 Recommendations.....	9
7. CONCLUSIONS.....	12
8. REFERENCES	13

FIGURES

APPENDIX A – Calibration Certificates

1. INTRODUCTION

1.1 Introduction

- 1.1.1 Mr W Lim operates the premises at Bank Bar in Folkestone. The venue is licensed and hosts events featuring live music.
- 1.1.2 Complaints have been received concerning noise from the site and Mr W Lim has commissioned Able Acoustics Ltd to undertake a site visit to identify sources of noise, to undertake measurements where possible, and to advise on control measures and any recommendations for further work.
- 1.1.3 This review is limited and does not constitute a detailed noise assessment of noise from all site operations.

2. NOISE UNITS AND STANDARDS

2.1 General

2.1.1 Noise is defined as unwanted sound. The range of audible sound is from 0 dB to 140 dB and a range of typical noise levels is presented in Table 2.1 below.

Table 2.1 Typical Sound Levels

Sound Pressure Level dB(A)	Source	Subjective Level
130 - 140	Jet (at 10m)	Threshold of pain
120 - 130	Pneumatic Drill (at 1m)	Extremely Loud
110 - 120	Loud Car Horn (at 1m)	Very Loud
100 - 110	Alarm Bell (at 1m)	Very Loud
80 - 90	Inside General Factory	Loud
70 - 80	Average Traffic (on street corner)	Loud
60 - 70	Conversational Speech	Moderate
50 - 60	Typical Business Offices	Moderate
40 - 50	Living-room Urban Area	Quiet
30 - 40	Library	Quiet
20 - 30	Bedroom (at night)	Very Quiet
10 - 20	Broadcasting Studio	Very Quiet

2.1.2 For variable noise sources, a difference of 3 dB(A) is just distinguishable. For road traffic or railway noise, a doubling of traffic flow will increase the overall noise by 3 dB(A). The "loudness" of a noise is a purely subjective parameter, but it is generally accepted that an increase/decrease of 10 dB(A) corresponds to a doubling/halving in perceived loudness.

2.1.3 The frequency response of the ear is usually taken to be about 20 Hz (number of oscillations per second) to 20 kHz. The ear does not respond equally to different frequencies at the same level. It is more sensitive in the mid-frequency range than the lower and higher frequencies and because of this, the low and high frequency components of a sound are reduced in importance by applying a weighting (filtering) circuit to the noise measuring instrument. The weighting which is most widely used and which correlates best with subjective response to noise is the dB(A) weighting. This is an internationally accepted standard for noise measurements.

2.1.4 External sound levels are rarely steady, but rise and fall according to activities within an area at any given time. In an attempt to produce a figure that relates this variable noise level to subjective response, a number of indices have been developed. These include:

i) *L_{Aeq,T} Noise Level*

This is the "equivalent continuous A-weighted sound pressure level, in decibels", and is defined in British Standard BS 7445 [1] as the "value of the A-weighted sound pressure level of a continuous, steady sound that, within a specified time interval, T, has the same mean square sound pressure as a sound under consideration whose level varies with time".

It is a unit commonly used to describe construction noise and noise from

industrial premises and is the most suitable unit for the description of other forms of environmental noise. In simpler terms, it is a measure of energy within the varying noise.

ii) *The L_{Amax} Noise level*

This is the maximum noise level recorded over the measurement period.

iii) *The L_{A90} Noise level*

This is the noise level that is exceeded for 90% of the measurement period and gives an indication of the noise level during quieter periods. It is often referred to as the background noise level and is used in the assessment of disturbance from industrial noise.

2.2 Noise Standards and Guidance

The Licensing Act 2003

2.2.1 The Licensing Act 2003 [2] places a clear focus on the promotion of four statutory objectives by Local Authorities acting as licensing authorities to when licensing decisions are made. These are:

- Prevention of crime and disorder
- Public safety
- Promotion and prevention of public nuisance
- Protection of children from harm

2.2.2 Each objective is considered equally important and there are no other licensing objectives.

2.2.3 With regard to the prevention of public nuisance, the Local Authority's Environmental Health Department performs the duty of a responsible authority and can make representations on new applications on the grounds of noise and can object in principle to a licence being granted or request conditions relating to noise be attached to a premises licence. It can also call a licence in for review on noise grounds.

The Environmental Protection Act 1990

2.2.4 The Environmental Protection Act [3] (EPA) imposes a duty on Local Authorities to investigate complaints relating to noise and has extended the power of the Local Authority to deal with noise emitted from premises so as to be a nuisance.

2.2.5 Where the Local Authority is satisfied that a statutory nuisance exists, or is likely to occur or recur an abatement notice can be served under Under Section 80 of the EPA which imposes imposing all or any of the following requirements:

- The abatement of the nuisance or prohibiting or restricting its occurrence or recurrence
- The execution of such works and such other steps as may be necessary

for any of those purposes

- 2.2.6 The notice shall specify the time or times within which the requirements of the notice are to be complied with.
- 2.2.7 It is understood that Bank Bar has been served an abatement notice and a copy of this notice has been reproduced in Figure 03

The Noise Act 1996

- 2.2.8 Section 10 of The Noise Act 1996 [4] (NA) has clarified the extent of the power of the Local Authority to abate a nuisance by confirming that under Section 81(3) of the EPA, the Local Authority can seize and remove any equipment which the Local Authority considers was being used to emit the noise in question, this includes DJ equipment.

The Clean Neighbourhoods and Environment Act 2005

- 2.2.9 The Clean Neighbourhoods and Environment Act 2005 [5] (CNEA) has introduced a discretionary power for the Local Authority to defer the service of an abatement notice by up to seven days in order to in order to take other appropriate steps to abate the statutory nuisance, one of which may be the use of the Noise Act 1996 for night noise which involves using the numerical difference between set levels.
- 2.2.10 It should be noted that the permitted level for the night noise offence should not be taken as an indicator of whether or not the noise may also constitute a statutory nuisance. It is possible that a noise which is not an offence under the Noise Act 1996 may nevertheless be a statutory nuisance. It is also possible that noise which is an offence under the Noise Act 1996 may not be a statutory nuisance.

3. SITE LAYOUT AND ENVIRONMENT

3.1 Site Layout

3.1.1 The site is currently operational and holds events featuring amplified music:

3.1.2 The site is located below Kalala restaurant located at ground floor level and is bounded by residential properties on Castle Hill Avenue to the north, an access road serving the rear of Castle Hill Avenue (running between Ingles Road and Bouverie Road West) located to the east, Bouverie Road West located to the south and Castle Hill Avenue to the west. The site location is shown in Figure 01.

3.1.3 The nearest noise sensitive premises are occupied residential dwellings above Bank Bar at first floor level and occupied residential dwellings adjacent to Bank Bar at ground floor/lower ground floor level. The site layout is shown in Figure 02.

3.2 Site History (Nuisance - Noise)

3.2.1 The abatement notice is dated 12th May 2017 and states:

"TAKE NOTICE that under the provisions of the Environmental Protection Act 1990 the Shepway District Council being satisfied of the reoccurrence of noise amounting to a statutory nuisance under section 79(1)(g) of the Act at:

Nearby residential premises

[within the District of the said Council] arising from The Bank Bar, Basement Business Premises, 2 Castle Hill Avenue, Folkestone, Kent, CT20 2QT."

3.2.2 It is noted that notice itself does not state the nature of the noise that is considered to be a nuisance. However, the covering letter indicates that the noise considered to be a nuisance is attributable to: amplified sound, music and people noise from inside as well as the outside smoking area.

3.2.3 The premises is understood to be a currently licensed premises with a licence (*Premises Licence Number SHEP00687/17*) for recorded music as follows:

Monday	10:00 00:30
Tuesday	10:00 00:30
Wednesday	10:00 02:30
Thursday	10:00 03:30
Friday	10:00 03:30
Saturday	10:00 03:30
Sunday	10:00 00:30

4. SITE VISIT AND SUMMARY MEASUREMENTS

4.1 General

4.1.2 In order to establish the primary sources of noise breakout, a site survey was undertaken on Friday 15th September 2017 between 14:05 and 16:35hrs. Attended measurements were also taken in and around the premises.

4.2 Site visit – Observations

4.2.1 A visual inspection was undertaken of the site on Friday 15th September 2017. Initial subjective observations revealed the primary source of noise to be emanating from the bar through the entry doors and doors to the toilet area.

4.2.2 The construction of the party walls is unknown.

4.2.3 The construction of the entry doors (lobby) are 45mm thick wood interspersed with 6-8mm single glazing. The doors were noted to be ill fitting and it was possible to view the entry stairway outside the buildings from within the bar with both sets of doors closed and locked.

- Floors: Hard finished floor, tiles (assumed to be laid directly) on concrete.
- Walls: specification unknown at the time of writing assumed to be studwork walls with plaster/plasterboard either side of studwork. Other walls from the original vault section assumed to be solid concrete.
- Ceiling, no details have been provided at the current time.
- Windows, there are no windows present with the exception of the glazed panels in the entry doors and in the adjacent toilet areas, which were noted to be sliding sash windows (glass thickness unknown but assumed to be at least 4mm).

4.3 Attended Measurements

4.3.1 Attended measurements were undertaken between 14:05 and 16:35 hours. Subjectively the acoustic environment at the site was recorded as being primarily attributable to traffic noise from Castle Hill Avenue and music from Bank Bar when the house system was activated.

4.3.2 Meteorological conditions were noted to be dry with 75% broken cloud cover, the temperature was noted as 22°C and wind speeds were less than 5m/s.

4.3.3 The following instrumentation was used for the noise survey:

- Rion type NA-28 Sound Level Meter (S/N 30431903)
- Rion Type NH-23 Pre-amplifier (S/N 21966)
- Rion Type UC-59 Microphone (S/N 04966)
- Rion NC-74 Acoustic Calibrator (S/N 34936366)

- 4.3.4 All equipment was within current manufacturer's periods of calibration at the time the measurements were carried out and calibration certificates are attached in Appendix A.
- 4.3.5 Before the survey commenced, the calibration of the instrumentation was checked using the acoustic calibrator to a reference level of 94.0dB. At the end of the survey the instrumentation was checked and no significant drift was noted.
- 4.3.6 The meter was set to record the following metrics automatically:
- L_{Aeq}
- 4.3.7 For the external measurements the frequency response of the meter was set to "A" and the time response was set to "Fast".
- 4.3.8 For the internal measurements where amplified music was playing the frequency response of the meter was set to "A" and the time response was set to "Slow".
- 4.3.9 Initial noise measurements were taken at the following separate locations:
- Inside the Bar (Dance floor area)
 - Inside the Bar (Bar area)
 - Inside the Bar (Seating area)
 - Outside the Bar (Entry doorway)
 - Outside the Bar (Top of stairs/roadside)

5. RESULTS

5.1 Noise Measurements

5.1.1 The logarithmically averaged results of the measured noise data are presented below.

Table 5.1: Summary of Measured Levels

Location	Measured Level dB(A)
Inside Bar Area	95.3
Music in WC Area	67.6
Music at Entrance Lobby (Doors Open)	76.5
Music Outside Entrance Lobby (Doors Closed)	67.9
Music Top of Entry Stairway (Doors Open)	63.3

NB These measurements are provided for informative purposes only and do not form the basis of a formal assessment.

6. DISCUSSION

6.1 General

6.1.1 Sound attributable to Bank Bar was clearly audible at the nearest noise sensitive premises. Initial spot measurements indicate that levels at the entry stairwell exceeded 63dB(A). An open window provides approximately 13dB of façade attenuation and an external level of 63dB(A) would correspond to an internal level of circa 48dB(A).

6.1.2 The World Health Organisation has produced guidance on noise limits which should prevent the onset of sleep disturbance [6]. The WHO guidelines state:

"When noise is continuous, the equivalent sound pressure level should not exceed 30 dB(A) indoors, if negative effects on sleep are to be avoided.....Indoor guideline values for bedrooms are 30 dB LAeq for continuous noise and 45 dB LAmax for single sound events."

6.1.3 There is a history of complaint relating to noise and the Local Authority have witnessed the noise and served an abatement notice in respect of noise from the premises.

6.1.4 Site observations have revealed the level of acoustic insulation to be inadequate in preventing the passage of sound.

6.1.5 Site observations have revealed the level of attenuation provided by the existing building envelope to be inadequate in preventing the passage of sound.

6.1.6 Site observations have revealed a number of improvements that can be made to the existing construction of the premises as well as a number of remedial measures that can be implemented to reduce the number of complaints relating to noise.

6.2 Recommendations

6.2.1 It has been noted that the current level of Sound Insulation provided by the premises is inadequate and this will need to be improved. Measurement for noise breakout should be undertaken at the site using calibrated equipment and noise sources in order to determine the appropriate construction requirements. Advice should be sought on the following:

- Improvements to internal/external wall constructions
- Glazing specification
- Ventilation strategy
- Acoustic Lobbies, secondary doors
- Revision of the noise management plan
- Possible rescheduling of events where a pattern of complaints has been established.

- Possible reduction in working hours while a scheme of acoustic attenuation is implemented.
- Possible revision of DJs hired for events where a corresponding pattern of complaint has been established.
- Use of anti-vibration mounts for speakers to decouple these from the structure.
- Increase in sound insulation between the WC areas and bar area and also the WC areas and adjacent premises.
- Improved glazing in WC areas.
- A noise management plan that restricts the numbers of patrons in any smoking/external areas and focusing on the need to keep lobby doors closed.
- Improvement to fitting of lobby doors.
- Implementation of a formalised complaints and feedback procedure for adjacent residents to use.

6.2.2 There is currently a limited Noise Management Plan that forms Section 11 of the Operational Plan. However it is noted this does not contain a formalised complaints and feedback procedure. It is noted that when considering noise control measures additional guidance can be found in the Good Practice Guide on the Control of Noise from Pubs and Clubs [7].

6.2.3 No noise limiter has visibly been installed, it is advisable to consider the possible installation of a noise limiter while any remedial works are taking place if the bar is to remain operational and options should be discussed with a suitably qualified acoustic consultant. It is also recommended the Local Authority be present during any installation and permitted to apply a seal to the limiter to prevent tampering. On occasions where the unit will need to be maintained prior notification should be given to the Local Authority regarding this.

6.2.4 Where events are expected to feature music of a type that has been noted to cause complaint restrictions can be placed on the level of bass content of the amplified music.

6.2.5 Plant noise was noted to be audible at the rear of the premises and it is also recommended the units be maintained. While not a specific music related issue this will assist in improving relations with the nearest noise sensitive premises.

6.2.6 There are two sets of doors present but both are not kept closed while the venue is operational. Door supervisors should be present to help ensure a more controlled transition of patrons, with both set of doors being able to be closed to minimise noise egress. Door supervisor duties can include preventing glass drinks receptacles being removed from the premises, opening and closing doors during access and egress to minimise noise breakout.

6.2.7 It is recommended where possible to play calmer music at a lower level at closing time this has been noted to encourage patrons to leave in a less 'rowdy'

manner.

- 6.2.8 Notices should be placed around the exits requesting patrons' cooperation in keeping noise to a minimum so as not to disturb nearby residents.
- 6.2.9 A staff training log should be kept and staff should receive general advice and training on how to control noise as well as familiarisation with the internal noise complaints procedure.
- 6.2.10 The Local Authority should be kept informed of any noise control measures and/or procedures implemented as a matter of good practice.

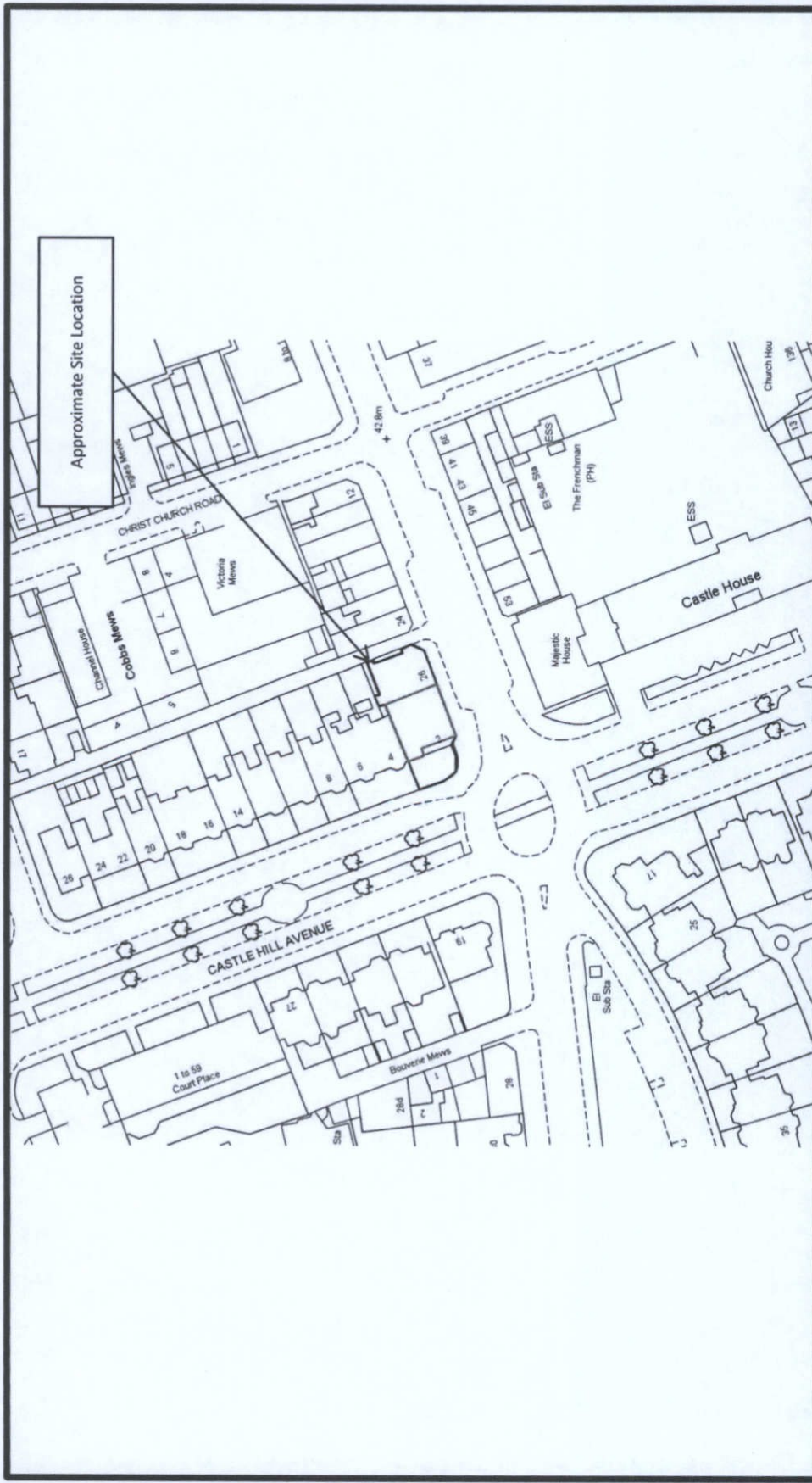
7. CONCLUSIONS

- 7.1.1 Visual observations have been undertaken at Bank Bar on Friday 15th September 2017. These observations have revealed the level of acoustic insulation to be inadequate in preventing the passage of sound.
- 7.1.2 Recommendations for possible noise control measures have been presented in Section 6.2 and it is suggested these be implemented as soon as reasonably practicable to do so.

8. REFERENCES

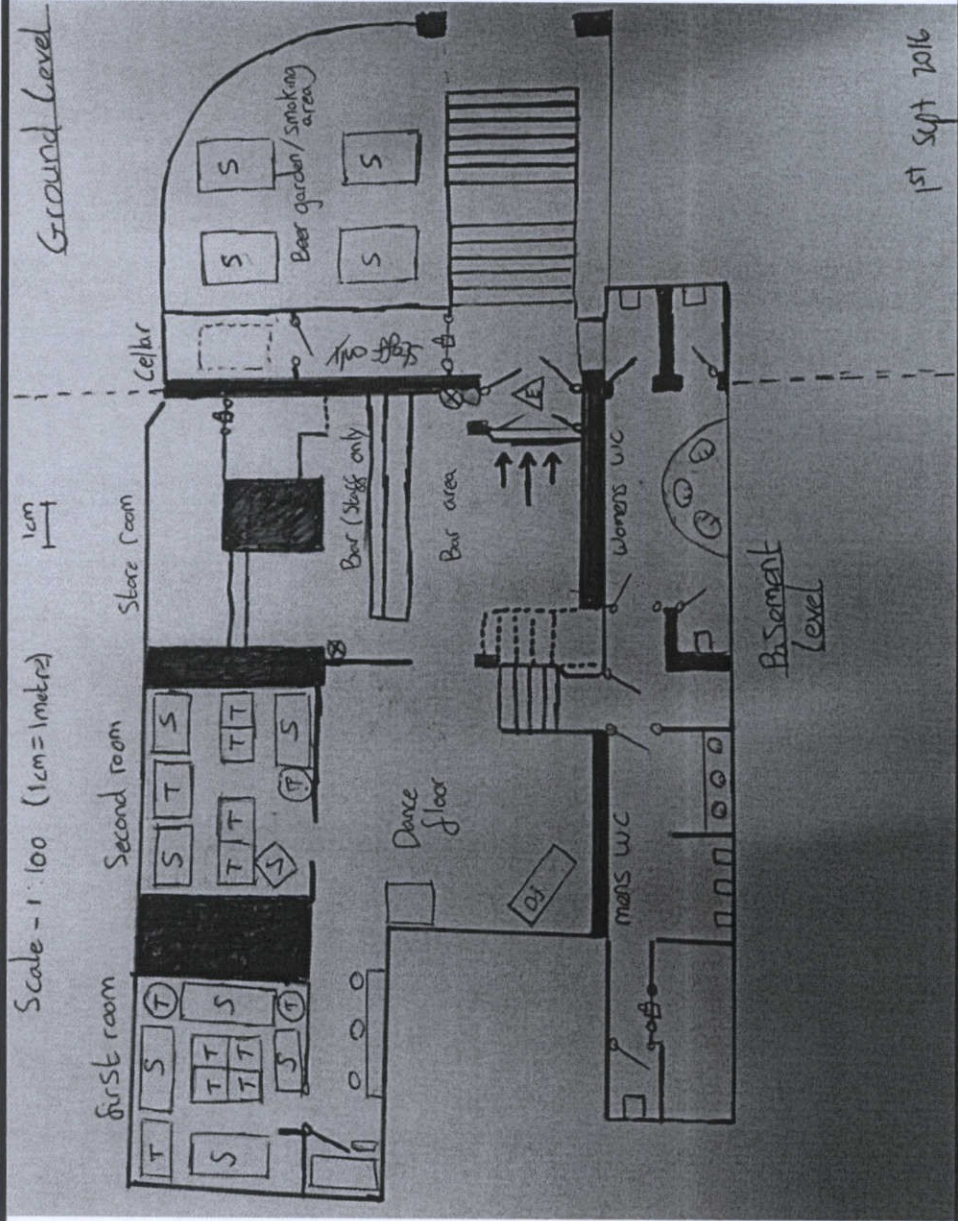
1. British Standards Institution. British Standard 7445: Description and Measurement of Environmental Noise, Part 1. Guide to Quantities and Procedures, 1991.
2. The Licensing Act, 2003.
3. The Environmental Protection Act, 1990.
4. The Noise Act, 1996.
5. The Clean Neighbourhoods and Environment Act, 2005.
6. World Health Organisation. Guidelines for Community Noise. 2000.
7. The Institute of Acoustics. Good Practice Guide on the Control of Noise from Pubs and Clubs, March 2003.

FIGURES



Not To Scale Resized from Original Image

Project	No.	Drawing	No.	File	Date
Bank Bar, Folkestone	P1263	Site Location	Figure 01	P1263/Figures.ppt	18/09/2017



Not To Scale Resized from Original Image

Project	No.	Drawing	No.	File	Date
Bank Bar, Folkestone	P1263	Layout Plan	Figure 02	P1263/Figures.ppt	18/09/2017

ENVIRONMENTAL PROTECTION ACT 1990, section 80

Abatement Notice in respect of a Statutory Noise Nuisance

To: Swee Leng Teong

Of: 26 Abbots Road, Cheam, Surrey, SM3 9TA.

TAKE NOTICE that under the provisions of the Environmental Protection Act 1990 the Shepway District Council being satisfied of the recurrence of noise amounting to a statutory nuisance under section 79(1)(g) of that Act at:

Nearby residential premises

[within the District of the said Council] arising from The Bank Bar, Basement Business Premises, 2 Castle Hill Avenue, Folkestone, Kent, CT20 2QT.

HEREBY REQUIRE YOU as the person responsible for the said nuisance of the premises from which the noise is or would be emitted forthwith from the service of this notice, to abate the same and also

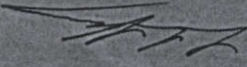
This is a notice to which paragraph (2) of Regulation 3 of the Statutory Nuisances (Appeals) Regulations 1990 applies and in consequence in the event of an appeal this notice shall NOT be suspended until the appeal has been abandoned or decided by the Court, as, in the opinion of the Council, the expenditure which would be incurred by any person in carrying out works in compliance with this notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.

If without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be guilty of an offence under section 80 (4) of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding level 5 on the Standard Scale, together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after conviction. A person who commits an offence on industrial, trade or business premises will be liable or summary conviction to an unlimited fine.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance. Further, if you fail to execute all or any of the works in accordance with this notice, the Council may execute the works and recover from you the necessary expenditure incurred.

DATED: 12th May 2017

(Signed)
Liam Flannery
Environmental Protection Officer



Environmental Health
Shepway District Council
Civic Centre, Castle Hill Avenue
Folkestone, Kent CT20 2QY

N.B. The person served with this notice may appeal against the notice to a magistrates' court within twenty-one days beginning with the date of service of the notice. See notes on the reverse of this form.

Not To Scale Resized from Original Image

Project	No.	Drawing	No.	File	Date
Bank Bar, Folkestone	P1263	Abatement Notice	Figure 03	P1263/Figures.ppt	18/09/2017

APPENDIX A
Calibration Certificates



CERTIFICATE OF CALIBRATION



Date of Issue: 12 February 2016

Certificate Number: UCRT16/1059

Issued by:
ANV Measurement Systems
Beaufort Court
17 Roebuck Way
Milton Keynes MK5 8HL
Telephone 01908 642846 Fax 01908 642814
E-Mail: info@noise-and-vibration.co.uk
Web: www.noise-and-vibration.co.uk

Page 1 of 2 Pages	
Approved Signatory	
M. Breslin []	K. Mistry []
J. Harriman []	

Acoustics Noise and Vibration Ltd trading as ANV Measurement Systems

Customer Able Acoustics
Unit 20 Connect 10
Foster Road
Ashford Business Park
Kent
TN24 0FE

Order No. P1000
Description Sound Level Meter / Pre-amp / Microphone / Associated Calibrator
Identification

Manufacturer	Instrument	Type	Serial No. / Version
Rion	Sound Level Meter	NA-28	30431903
Rion	Firmware		2.0
Rion	Pre Amplifier	NH-23	21966
Rion	Microphone	UC-59	04966
Rion	Calibrator	NC-74	34536109
	Calibrator adaptor type if applicable		NC-74-002

Performance Class 1
Test Procedure TP 2.SLM 61672-3 TPS-49
Procedures from IEC 61672-3:2006 were used to perform the periodic tests.

Type Approved to IEC 61672-1:2002 Yes Approval Number 21.21/07.01
If YES above there is public evidence that the SLM has successfully completed the applicable pattern evaluation tests of IEC 61672-2:2003

Date Received 11 February 2016 ANV Job No. UKAS16/02027
Date Calibrated 12 February 2016

The sound level meter submitted for testing has successfully completed the class 1 periodic tests of IEC 61672-3:2006, for the environmental conditions under which the tests were performed. As public evidence was available, from an independent testing organisation responsible for approving the results of pattern evaluation tests performed in accordance with IEC 61672-2:2003, to demonstrate that the model of sound level meter fully conformed to the requirements in IEC 61672-1:2002, the sound level meter submitted for testing conforms to the class 1 requirements of IEC 61672-1:2002.

Previous Certificate	Dated	Certificate No.	Laboratory
	Initial Calibration		

This certificate is issued in accordance with the laboratory accreditation requirements of the United Kingdom Accreditation Service. It provides traceability of measurement to the SI system of units and/or to units of measurement realised at the National Physical Laboratory or other recognised national metrology institutes. This certificate may not be reproduced other than in full, except with the prior written approval of the issuing laboratory.



CERTIFICATE OF CALIBRATION



0653

Date of Issue: 06 April 2017

Certificate Number: UCRT17/1242

Issued by:

ANV Measurement Systems
Beaufort Court
17 Roebuck Way
Milton Keynes MK5 8HL
Telephone 01908 642846 Fax 01908 642814
E-Mail: info@noise-and-vibration.co.uk
Web: www.noise-and-vibration.co.uk

Page 1 of 2 Pages
Approved Signatory
K. Mistry

Acoustics Noise and Vibration Ltd trading as ANV Measurement Systems

Customer Able Acoustics
Unit 20 Connect 10
Foster Road
Ashford Business Park
Kent
TN24 0FE

Order No. P-1000

Test Procedure Procedure TP 1 Calibration of Sound Calibrators

Description Acoustic Calibrator

Identification	Manufacturer	Instrument	Model	Serial No.
	Rion	Calibrator	NC-74	34936366

The calibrator has been tested as specified in Annex B of IEC 60942:2003. As public evidence was available from a testing organisation (PTB) responsible for approving the results of pattern evaluation tests, to demonstrate that the model of sound calibrator fully conformed to the requirements for pattern evaluation described in Annex A of IEC 60942:2003, the sound calibrator tested is considered to conform to all the class 1 requirements of IEC 60942:2003.

ANV Job No. UKAS17/04145

Date Received 05 April 2017

Date Calibrated 06 April 2017

Previous Certificate

<i>Dated</i>	18 February 2016
<i>Certificate No.</i>	UCRT16/1061
<i>Laboratory</i>	7623

This certificate is issued in accordance with the laboratory accreditation requirements of the United Kingdom Accreditation Service. It provides traceability of measurement to the SI system of units and/or to units of measurement realised at the National Physical Laboratory or other recognised national metrology institutes. This certificate may not be reproduced other than in full, except with the prior written approval of the issuing laboratory.

Bank Bar Door Supervisor Responsibilities 01/02/2016

- 1 doorman will be present from 21:00, with one on stand-by to arrive at 23:00 – 23:30 when there are more than 50 people at 22:30 – 23:00 (or later).
- Be aware that if it is no longer busy, you might be sent home early. We can guarantee two hours work minimum.

Compliance and reporting obligations

- 1) Sign-in at beginning of the night in register with SIA licence number
- 2) In the event any incident occurs, please record in the incident book. Incidents are any refusals, ejections, fights, criminal activity

On-site responsibilities

- 1) Random searches are carried out, IDs checked
- 2) Running headcount – there should be a maximum of 120 people inside and outside the venue at any moment. Use two clickers to monitor this.
- 3) After 10:30pm
 - a. No glass allowed outside, please only use polycarbonate drinks containers
- 4) After 11pm
 - a. No drinks allowed outside
 - b. Maximum of 15 people in the smoking area
 - c. If venue is getting to capacity, the door supervisors must enforce a **one-in-one-out policy for smoking**; one door supervisor at the entrance, and one positioned on the terrace
- 5) Stairs must kept clear – no sitting on the steps or congregating on the steps
- 6) Smokers smoke on the patio
- 7) Everyone on our premises and its immediate proximity must be customers. Ask them to politely move away if they are not.
- 8) Patrol inside of the venue every half hour, look for suspicious activity
- 9) Noise responsibilities
 - a. Doors have to be shut, or open as little as possible to prevent noise leakage. Don't let people hold the doors wide open
 - b. Ensure that volume in the smoking area is kept to a minimum – that people aren't shouting in this area. If there is shouting please take reasonable steps to ensure that do not continue (either by polite warning or threat of disbarment). You have to constantly remind customers out here to keep their voices down. Failure to do so puts my licence in jeopardy!
 - c. Sound reading with noise meter taken from top of the stairs every half hour after 2300 hrs
 - d. Acceptable level at the top of the stairs with no background noise (cars passing etc.) should be between 45-55 dB(A) on the sound meter. Any higher and it indicates action needs to be taken. Please be careful with the equipment as it has been calibrated.
 - e. 10-minute and 5-minute warnings for DJs to turn the music off
- 10) Last entry for new customers is at 01:00am for 01:30am closing time, and 02:30am for 03:00 am closing time
- 11) No re-entry after 01:15 am for 01:30am closing time, and 02:45am for 03:00am closing time.
- 12) End of the night
 - a. Everyone must be dispersed by 10 minutes after official closing time (either 01:30am or 03:00am)