

**Environmental Health Representations
for an Application for a Premises
Licence in respect of**

**Bakshish Ltd
Unit 5 Thames Edge Court
Clarence Street
Staines Surrey
TW18 4BU**

History

Spelthorne's Environmental Health service has had considerable involvement with the premises over the years, concerning noise.

The complaints made were concerning loud music from these premises in 2005/06. Environmental Health investigated the noise complaints.

This investigation concluded that the noise emanating from the premises to be causing a statutory noise nuisance. This resulted in noise abatement notices being served on "Holaw (431) Ltd", the leaseholder of the premises and the two occupiers of the premises, who were operating Diablos. In total three notices were served in January 2007. The noise abatement notice, served on Holaw (431) Ltd, is still in force as they are the leaseholders for the premises.

It is understood that the premises closed in February 2007.

In the licensing sub committee meeting held on the 11th January 2010, following an application made by Holaw (431) Ltd (Leaseholder) for a premises licence at this property. The Spelthorne Environmental Health Officer who attended the meeting, informed members that Holaw (431) Ltd had advised Environmental Health there was inadequate noise insulation to the premises which would need to be dealt with to ensure the abatement notice could be complied with.

Environmental Health approached Holaw (431) Ltd for their proposals and to date the company has not submitted details of any noise insulating works proposed or undertaken at the premises, despite previously agreeing to do so.

Mr Goldsmith, the representative from Holaw (431) Ltd, advised the committee that the company wanted to let the premises on conditions that would work for the residents as well as the business. Mr Goldsmith advised that there would also be a covenant in any lease to a tenant that the property would not be used as a nightclub.

Also, a noise consultant, engaged by Holaw (431) Ltd, stated in his report that the noise levels from this establishment were unacceptable and that works would be required to the structure of the building to improve sound insulation.

The premises were closed from 2007 until Soiree Restaurant Ltd (the last occupier) took over the premises in March 2011. No noise complaints were received by Environmental Health until February 2012. Soiree Restaurants Ltd surrendered their licence in 2015. The premises have been closed since then.

Whilst Soiree Restaurants Ltd were the premises licence holder the Council's Environmental Health Service had considerable involvement in respect of noise complaints about the premises from 2012 until they surrendered their licence: These consisted loud live music/bass sound. In addition, lacked adequate noise insulation to prevent loud music being emitted from the premises. There were also complaints about customers leaving the premises causing anti-social behaviour.

Environmental Health did a considerable amount of work with the Licence holder to resolve the problem. It investigate the noise complaints received. At the time, conclusion was that noise from amplified music was not at loud enough for the Council to take any further action because it was not at a level to be determined as a statutory noise nuisance under the Environmental Protection Act 1990. The noise from people in the footpath that runs alongside the premises is very difficult to control and also difficult to determine any link with the premises. As the footpath is a public right of way. In addition, the Council can only take action for nuisances where one property directly affects another property. A public right of way is not defined as a premise, as defined by the Environmental Protection Act 1990.

A number of the representations made to the Council, have raised concerns about antisocial behaviour from the Slug and lettuce that join's Unit 5 Thames Edge Court. Since 2012 to 2018, Environmental Health have received seven complaints from the Slug and Lettuce, comprising of loud music, broken glass, doors not being closed, people congregating and smoking outside the premises, urinating and vomiting. Car engines running. The more recent ones, were as a result of this application for Unit 5.

Soiree had 8 complaints recorded during the period of 2012 – 2014, from noise from customers leaving the premises, excessive number of smokers outside and loud music.

Environmental Health are not aware of any noise insulation works being undertaken at the premises. Noise insulation measures need to be undertaken. The previous Licence Holder of the premises, failed to manage customers using the premises.

Current Position

In October 2017, the proposed licence holder made approaches to the Council to discuss the premises and their proposals for the premises. There was a site meeting, when various concerns were raised about the premises, including noise, acoustic insulation works and customers leaving the premises. The proposed usage of the premises was to be a restaurant,

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located downstairs in the basement, with computer generated digital themes projected onto walls and floor. The proposed licence holder advised that a business plan would be forwarded to the Council. To date, no business plan has been received.

In January 2018, Bakshish Ltd made an application to Spelthorne Borough Council for a premises licence for the following uses:

- Restaurant
- Pub
- Bar
- Private Restaurant Hire for Parties

Including the following licensing activities:

- Indoor Sporting Events
- Live Music
- Recorded Music
- Performance of Dance
- Late Night Refreshment with Supply of Alcohol
- Films

The application gives a distinct impression that it is going to be restaurant with a night club with ancillary activities. Environmental Health is aware of the statement made "also it is not a night club". It may not be a night club, however there is regulated entertainment and restaurant will be hired for parties. This does indicate night club type activities. The plans show that a ceiling mounted sound system is to be installed in the premises.

Environmental Health have raised its concerns with the application, by way of a letter to the applicant's agent (See Appendix 1).

There was a site meeting held on the 15th February 2018, where concerns were discussed with the applicant and their design consultant, together with Environmental Health and Surrey Police.

The application details an operating schedule showing that the premises could be open for up to 20 hours a day. It asked for an explanation of the following, for clarification and understanding of the following activity free dancing to enhance restaurant nights. The applicant has indicated that customers may dance on impulse by the customers. They are having party nights.

Concerning the themed nights: Gazzle – is where Indian poetry is read, with background music. Bollywood/Hollywood are themed party nights, where customers dress up.

The concerns covered the following:

- Noise control

Acoustic insulation

Sound limiting device

Explanation on limiting the impact on others, and

Management of queues, smoking area, and customers departing from the premises.

Impact on nearby residential premises.

Odour and fumes of cigarette smoke

The operating schedule, for the following licensable activities, i.e. live music, recorded music, performance of dance, alcohol, provision of anything of a similar description to live music, recorded music or performance of dance end at 01:00.

However, the standard opening hours show that the premises will close at 02:00, and on 20 – 30 nights (Friday and Saturday) per years close at 03:00 for special events. The licence application does not cover licensable activities after 01:00. There is no indication on the operating schedule about activities after 01:00. However the applicant during the meeting was very clear about the opening hours: the opening hours would 07:00 – 01:00 (application states 09:00 – 02:00). No licensable activities will be permitted after 01:00. The Ground Floor will operate primarily as a café between the hours of 07:00 – 10:00. In the morning alcohol could be sold. For the rest of the day the Ground Floor will be a high class bar/pub.

In addition, on 20 - 30 nights per year, only Friday/Saturday nights they will be having corporate bookings.

The applicants have stated, that the basement will be used as a restaurant, however, there is an exemption for private parties for corporate bookings. These type of booking indicates that the basement would be used for parties or similar activity.

The Council has no history in respect of the applicants for having a licensable premises within Spelthorne Borough Council's area. It is unable to comment on the applicant's ability to manage the premises.

Recommendations

Environmental Health wish to make the following recommendations:

1. The premises licence is not to be granted as the premises are not fit for purpose as a night club or party venue. This is because the premises have a lack of sound insulation which results in the unacceptable disturbance to residents.

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2. The premises licence not to be granted until all concerns have been fully resolved and noise control and acoustic works have been completed sound tested and passed by the Environmental Health at Spelthorne Borough Council. This is to ensure that residents are not disturbed by the music or other noise coming from the premises.
3. If the Committee is mind full in granting a premises licence, in the interim, prior to the completion of noise control and acoustic works. Then regulated entertainment, i.e. live and recorded music should not be permitted, until all noise control and acoustic works have been completed, sound tested and passed by the Environmental Health at Spelthorne Borough Council. Background music will be permitted only.

Environmental Health would recommend the following conditions, be attached to the Premises Licence, if a Licence is granted for the premises.

1. The opening hours of the premises:

Monday to Sunday (inclusive) 07:00 – 01:00

2. The times the licensable activities to be authorised by the licence to be restricted as follows:

Provision of Regulated Entertainment to be restricted to the following:

Sunday to Thursday (inclusive)	10:00 – 23:00
Friday and Saturday	10:00 – 01:00
New Year's Eve	10:00 – 01:00

Late Night refreshment:

Monday to Sunday (inclusive) 23:00 01:00

Supply of Alcohol:

Monday to Sunday (inclusive)	10:00 – 01:00
New Year's Eve	10:00 – 01:00

3. The premises shall not be used at any time for the activity of a nightclub or similar activity.

Management

4. The only customers' to be permitted access to the basement, of the premises, shall only be those who are having a substantial table meal that is prepared and served on the premises. This includes private parties' e.g. corporate bookings. (Advisory Note: This is to prevent the premises becoming a night club. This would stop the licence being

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transferred to another party and using it as a night club or similar activity.)

5. No customer shall be permitted to access the basement for the purposes of being sold and consuming alcohol only.
6. The smoking area, is to be located near to the base of the access to the side entrance. Smoking will not be permitted after 22:00 Sunday to Thursdays. On Friday and Saturday's smoking will be permitted, after 22:00, only whilst the restaurant is open. The maximum permitted number will be 4 persons at all times. The licence holder shall ensure that customers who are smoking, are surprised by staff, do so in an orderly manner, so as not to cause a nuisance to nearby residential premises and obstruct the public right of way. No consumption of drinks of any type will be permitted in the smoking area.

Provide wall or floor mounted cigarette bins in the designated smoking area for customers.

7. Notices shall be prominently displayed at both exits, requesting customers to leave quietly and respect the needs of the local residents.
8. Any queue that forms outside the premises, shall be supervised, to ensure those queueing do so in an orderly manner, so as not to cause a nuisance to nearby residential premises and obstruct the public right of way.
9. Customers who are waiting for a taxi, shall be encouraged to wait inside the premises until the taxi arrives.
10. Customers shall not be permitted to take drinks outside, at any time.
11. Door staff to ensure that large gatherings of patrons are dispersed and that patrons depart from the premises and area quietly
12. Only background music will be permitted to be played in the Ground Floor of the premises. No noise from music, television or other means of amplification will be audible outside the licensed premises.
13. Staff will check prior to the commencement of entertainment (being live and/or recorded music) and periodically during such entertainment that all windows and doors at Ground Floor are closed at all times.

Sound System

14. The only permitted sound system, will be one that is installed onto the ceiling and uses plane wave technology and directional control, which confines the sound within a specific area in the premises. The only permitted speakers will be these installed as part of the sound system.

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No other sound system/speakers will be permitted, nor will additional free standing speakers/cabinets be permitted on premises.

The system will have a noise limiting function inside the software to ensure that a pre-set threshold level cannot be exceeded. The noise limiter shall be linked to all electrical sockets used to power amplification equipment used for the purposes of the regulated entertainment and shall be capable of switching off the power to those sockets in the event that the agreed noise limit is exceeded.

Reference levels for the noise monitoring equipment will be established and agreed by an Environmental Health Officer or other nominated representative of the Spelthorne Borough Council with an independent acoustic consultant acting as the representative for the premises licence holder prior to any regulated entertainment taking place at the premises. The acoustic consultant shall be a corporate member of the Institute of Acoustics. Where the agreed limit requires access to residential premises to determine the acceptability of the limit, such access shall be arranged by the representative of the Spelthorne Borough Council with the owner or occupier of those premises. The representative of the Spelthorne Borough Council will then be present in the residential premises to establish the setting of the noise limiter that meets the criteria of Spelthorne Borough Council. Once the agreed limit has been established, the noise limiter shall be locked and the settings shall not be altered without the written consent of Spelthorne Borough Council.

The sound system shall be adjusted/isolated so as not to permit bass music to travel through the building.

The limit set on the noise limiter may be reviewed by an Environmental Health Officer or other nominated representative of the Spelthorne Borough Council in accordance with the process set out above

15. All bands and DJs shall use the in house sound system only.

Sound Insulation

16. The ceiling in the basement will be acoustically treated to ensure that noise from amplified music and sound is inaudible, in the residential properties at Thames Edge Court, at all times.
17. This is to be tested and signed off by an Acoustic consultant and Environmental Health, prior to the premises operating.
18. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

Informative

Any proposed extensions to the normal opening hours, on a Friday and Sunday that are 07:00 – 01:00, shall only be permitted by the application of a Temporary Event Notice, giving the appropriate statutory timescales to the Licensing Authority.

The purpose of these conditions is to reduce the impact on nearby residential premises from the activities being undertaken in the premises.

L R Spearpoint
Senior Environmental Health Officer
Spelthorne Borough Council
21st February 2018

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Please reply to:
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Our Ref:
Your Ref:
Date: 1st February 2018

Att: Ms Chandra Somasuntharam

Dear Madam

**Application for Premises Licence
Unit 5 Thames Edge Court, Clarence Street, Staines TW18 4BU**

I have looked at the Application for a Premises Licence at Unit 5 Thames Edge Court, Clarence Street for which you are the agent for.

I do have concerns about the application in particular the length of time the premises will be in operation for, i.e. up to 20 hours a day. The activities will have an impact on the residents who live in the flats immediately above the premises and the residential properties in the surrounding area. The application gives a distinct impression that it is going to be restaurant with night club and ancillary activities.

I would like to know what does free dancing to enhance restaurant nights mean. Additionally, please could you explain what are Gazzle Night, Hollywood and Bollywood Nights. In addition, what are the implications for noise?

Although the application makes reference to undertaking acoustic works: to a hole in the kitchen, acoustically treated ventilation, air conditioning, sound lobby to the two entrances, sound insulation to emergency door, extractor fan, and sound insulation to ventilation ducts and outlets. There is no mention of the specification of works, to cover this. I would like to see a copy of the specification for the proposed acoustic works. Additionally, how are the premises to be noise insulated to ensure that there is no sound transmission, airborne and structurally, to the residential accommodation above the premises from the amplified music and other noise being generated within the premises.

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The air handling units for ventilation were are they to be positioned? How will they be acoustically treated to avoid noise affecting the residents?

The Council will be looking for the sound limiting device to be used at all times when amplified music and sound is being used for what ever activity that is being undertaken at the time. This device will have to be calibrated before the premises opens for business.

I note that there is an intention that the premises are to be in operation for up to potentially 20 hours a day. How do you intend to operate at realistic times and not have an impact on others?

I am pleased to see that there will be no smoking outside after 11:00 pm and additionally no outside smoking on Fridays and Saturdays. Where will smoking be permitted outside these hours? How will this be managed to control the noise from the smokers.

You are expecting queues to be present outside the premises during the activities being undertaken at the premises. I would like to see a copy of your policy for the proper management of door, door admissions and reduce the potential for excessive queue lines, together with noise control measures.

Who will be responsible for undertaking the regular monitoring checks to ensure noise is being adequately controlled? Where will the noise be monitored from? How frequent will the checks be undertaken? The checks will have to be logged and any remedial action undertaken recorded. The person undertaking the monitoring must have the authority to deal with the noise by requiring the noise level to be reduced and prevent it for reoccurring.

When noise levels increase at the frontage of licensed premises, consider alternative exit route to the rear or side street to minimise noise. The concern I have is that there is no rear exit route from the premises and the side entrance opens up into pedestrian access way that leads away from the premises and towards the front of the premises. How are customers leaving the premises to be managed?

When will the playing of calming/relaxing music commence to allow customers to adjust?

I look forward in hearing from you, concerning the points raised. You can contact me on the above telephone number.

Yours faithfully

Leslie Spearpoint
Senior Environmental Health Officer