

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

**Sensations Leisure 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 of loud live music/bass sound. In addition, structure of the premises lacked adequate noise insulation to prevent loud music being emitted from the premises. There were also complaints about customers leaving the premises and 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, the conclusion was that noise from amplified music was not 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.

An application was received for a Premises Licence on 23 January 2018. Spelthorne Borough Council received 47 relevant representations from persons living nearby which raised concerns about antisocial behaviour from the Slug and Lettuce that joins Unit 5 Thames Edge court. From 2012 to 2019, Environmental Health have received nine complaints regarding the Slug and Lettuce, comprising of loud music, broken glass, doors not being closed, people congregating and smoking outside the premises, urinating, vomiting and car engines running.

Environmental Health are not aware of any noise insulation works being undertaken at the premises. Noise insulation measures need to be undertaken.

Current Position

In August 2019, Sensations Leisure Ltd made an application to Spelthorne Borough Council for a premises licence for the following uses:

'Sale and consumption of alcohol on the premises, for parties, birthdays, corporate functions, private parties for adults to meet and party.'

The application included the following licensing activities:

Live Music

Recorded Music Late Night Refreshment with Supply of Alcohol Films

The application gives a distinct impression that it is going to be a private club with the option to hold parties and corporate events which may at times include live and recorded music.

There was a site meeting held on the 28th August 2019, with Environmental Health Officers, Spelthorne Licensing Team and the proposed licence holder. Various concerns were raised about the premises, including noise, acoustic insulation works and customers leaving the premises. The proposed licence holder was open to carrying out suitable sound insulation works and any other noise control measures to the licenced premises so that music and speech from the licenced premises does not cause nuisance to neighbouring noise sensitive premises.

At the site meeting the proposed premises holder claimed they had no interest in running the premises as a nightclub and during the adult private party nights would only be playing background music. However, within their premises licence application they have applied for regulated entertainment and the premises will be hired for parties. This does indicate night club type activities.

The applicants have stated that the private parties will be held on Fridays and Saturdays in the upstairs bar and the basement. All other times the bar upstairs will be open to the general public and the basement/bar will be available for hire. However during the meeting the proposed licence holders were still considering different options for the premises and the type of bookings they would take. The applicants insisted they did not want to run a night club but their application includes the option for club type activities including live music to be played in the basement.

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.
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 mindful 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.

Management

1. The premises shall not be used at any time for the activity of a nightclub or similar activity.
2. 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 after 22.00 will be limited to a maximum permitted number of 4 persons at all times. The licence holder shall ensure that customers who are smoking, are supervised 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.

3. Notices shall be prominently displayed at both exits, requesting customers to leave quietly and respect the needs of the local residents.
4. 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.
5. Customers who are waiting for a taxi, shall be encouraged to wait inside the premises until the taxi arrives.
6. Customers shall not be permitted to take drinks outside, at any time.
7. Door staff to ensure that large gatherings of patrons are dispersed and that patrons depart from the premises and area quietly
8. 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.

9. Staff will check prior to the commencement of entertainment (being live and/or recorded) and periodically during such entertainment that all windows and doors at Ground Floor are closed at all times.

Sound System

10. 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. 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 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

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

Sound Insulation

12. A suitable and sufficient acoustic survey must be carried out. Appoint a competent acoustic engineer, registered with the Institute of Acoustics or Association of Noise Consultants to carry out a thorough acoustic survey of the premises and the neighbourhood to identify noise sensitive premises. The survey is also to identify the ambient noise levels during operation of the licensed premises and the representative music genre, sound level frequencies and volumes generated by the licensed premises. Using the results of the acoustic survey, design a scheme of sound insulation works and other noise control measures to the licensed premises so that any noise such as but not limited to music, film and speech from the licensed premises is **inaudible**, in the residential properties at Thame Edge Court and any other noise sensitive premises identified in the acoustic survey at all times.

Submit proposals for noise measures to Environmental Health for their consideration. The licence is not to come into operation until works identified to control the music and speech have been approved by Spelthorne Environmental Health Service and have been implemented. These works are to be tested and signed off by an Acoustic consultant and Environmental Health, prior to premises operating.

13. 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. This is to be tested and signed off by an Acoustic consultant and Environmental Health, prior to premises operating.

14. 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.

The purpose of these conditions is to prevent public nuisance by reducing the impact on nearby residential premises from the activities being undertaken in the premises.

L McVey
Environmental Health Regulatory Officer
Spelthorne Borough Council