

24/00552/REVIEW - Ephesus, 57-59 High Street, Sevenoaks TN13 1JF

Since 2021 the Environmental Health Team has investigated a number of complaints in connection with this premises, primarily amplified music played at excessive volume. However, complaints of noise from customers in the immediate vicinity of the premises have also been received, including incidents of disorder.

I feel it is important to briefly consider the context in which this License Review application has been made: Prior to the last review of this premises license on 14th October 2022, the EH Team had installed noise recording equipment at the complainant's property. The results indicated amplified music played at excessive level (and beyond the hours allowed by the premises license). The noise nuisance recorder was installed between 13th December 2021 and 10th January 2022. The only TEN applied for during this period was 21/02700/LATEN – and this did not authorize “regulated entertainment” (which includes the provision of live and recorded music). In response, a Community Protection Warning Letter was issued to the premises license holder, Mr Surucu, on 9th February 2022. Mr Surucu denied that the music was from his premises.

Despite this action, complaints continued and the Duty EHO visited in response to a further complaint on 13th August 2022. He arrived just after midnight and witnessed intrusive levels of noise in the complainant's bedroom from amplified music, as well as from customers standing outside at the front. Despite the Officer taking considerable care to confirm where the noise was emanating from, the premises license holder once again denied playing recorded music over the weekend, informing the Licensing Officer that he was using his own equipment and it was played at background level only. Once again, the application for a TEN did not request “regulated entertainment” – and consequently amounted to a breach of the premises license.

It is important to note that at the time of the out-of-hours visit, the premises had a noise limiter installed (used to restrict amplified sound to a pre-set level). Also, I had previously monitored the noise from outside the premises to ascertain the audibility there (when music was played at the maximum level that the noise limiter had been set to). It was loud inside the premises but outside at the side and rear it was audible but not intrusive (visit on 3rd August 2022). After the visit was brought to Mr Surucu's attention he subsequently suggested that I had “approved” the level set (and by implication was responsible). As explained to him, this was not the case and I was simply seeking to determine the approximate level of noise break-out when the door between the restaurant and glazed area was closed. Mr Surucu was advised that ultimately the amplified music witnessed was too loud – indicating the noise limiter needed to be adjusted.

The 14th October 2022 Review required, *inter alia*, that details of the noise limiter should be submitted for approval and then set in consultation with the EH Team – which was done. Unfortunately, noise complaints continued and further noise monitoring was undertaken from 28th November 2023 – 18th December 2023 by use of recording equipment (short report attached). A number of the noise recordings contain loud and bassy music which is very disturbing. Customers raised voices and singing along can also be heard on occasions. During the period of noise recorder installation, some of the recordings were made at times when a TEN was in operation. However, it appears to me that during the early hours of Saturday 9th December 2023 and the early hours of 16th December 2023 there was not a TEN in force. The premises license does not authorise regulated entertainment, so that the only time that recorded music above background level can be played is until 23:00 hours (as

per the deregulation provisions). It therefore appears that on these two dates there was a licensing breach in terms of recorded music being played. In addition, it does not appear that the noise limiter was operating as it should.

It should be noted that the noise recordings obtained were made in a bedsit (or House of Multiple Occupation) and that it is understood that some of the recordings were made with the door of the resident's bedroom open (leading onto a communal corridor). To some extent this does mean that these recordings were not obtained in a manner that is fully representative of normal occupation. However, despite this, the recordings do make it apparent that the music was played at excessive level, that there was either a problem with the noise limiter (or that it was not used / the level set was changed) and of non-compliance with the premises license.

Since the last license review when SIA conditions were added to the premises license, the EH Team has received details of further incidents of disorderly conduct in the close vicinity of the premises, occurring on 18th November 2023 and 10th December 2023 (emails with videos attached).

On 22nd February 2022 Mr Surucu attended a meeting at the District Council Offices. A representative from the Police, Licensing Team, as well as myself, were in attendance to discuss our various concerns. Mr Surucu was asked what type of premises he was trying to run? Initially Mr Surucu replied a restaurant, but it was put to him that most restaurants and pubs do not require security staff, noise limiters or require the type of extensions in opening hours with regulated entertainment that had been made sought. It was explained to us that after restaurant trading earlier in the evening, Mr Surucu wanted to operate a bar with regulated entertainment / DJ Desk to provide a party atmosphere where there might be dancing.

In the opinion of the EH Team, the license holder has indicated an inability to operate as a late night bar with regulated entertainment without impacting the local community or breaching his premises license. It is therefore our recommendation that the premises license is amended to enable typical restaurant opening hours only. It is noted that the planning permission for this premises is more restrictive than the current premises license and this premises license review may present an opportunity for the two regulatory systems to be harmonized, simplifying compliance for the premises, assisting the District Council's monitoring of the business where necessary, and significantly improving the amenity for local residents.

Condition 5 of the planning permission granted in respect of this premises (SE/97/2051) states the following:-

"The hours of opening of the restaurant shall be restricted to 8.30am to 11pm from Monday to Saturday and 12.00 noon to 10.00pm on Sundays and Public Holidays

Reason: In the interests of the residential amenities of the area".

My only reservation is that the applicant could continue to apply for a significant number of temporary event notices – which would risk perpetuating the current situation. If the licensing committee were minded to have regard to EH Team's advice in constraining the current premises licence, it is recommended that the noise limiter installed should continue to be required to be used at all times, and include a statement that Section 177A of the

Licensing Act 2023 does not apply to the condition (in order that the deregulation provisions can be disapplied). Legal Team have advised that if EH consider that the condition should also apply to a TEN, EH Team would need to ask for the condition to be applied on every occasion.

C.H