

MEMO: Environmental Protection Team

To	Regen.Lic	Date	23 March 2018		
Copies	Andrew Heron				
From	Ken Andrews	Telephone	020 7525 4258	Fax	020 7525 5705
Email	Ken.Andrews@southwark.gov.uk				
Subject	Review of Premises Licence -11 Bermondsey Square				

EPRA has considered an application to review the premises of 11 Bermondsey Square SE1 3UN. The review relates to the:

- Prevention of crime and disorder
- and the prevention of public nuisance.

EPRA has considered the application and the grounds for the review and supported the application concerning the Prevention of Public Nuisance.

The premises known as Lokma restaurant is in proximity to several residential properties. Our record show that Noise Service has received over 12 complaints from four different residential addresses regarding noise from music being played at the venue and noise from patrons..

A noise officer responded to a complaint on the 24 December 2017 at 01:30 hours, and witnessed noise emanating from the restaurant from within the complainant premises that constituted a Statutory Nuisance.

The Noise Officer reported that the heavy bass music was very loud as they approached the Bermondsey Square. Also, the music was witnessed past the licensed period. The officer discussed the impact of the music and the fact that it was past the licensed time with the SIA. The officer reported that the SIA explained that the music was left on to contain the punters inside while the SIA securities disperse those outside.

A warning letter was served on 16 January 2018 (Appendix1)

The Noise Team received further complaints since the serving of the warning letter and on 17 January 2018 at about 23:57, an officer witnessed loud amplified music emanating from the premises, but the level within the complainant home was not considered a Statutory Nuisance. Nevertheless, the Officer reminded the restaurant management of their responsibility not to play music at a level that can cause a public or Statutory Nuisance.

On 17 February 2018, The Noise Officer witnessed a further noise from the restaurant that constituted a Statutory and served an Abatement Notice to prevent a reoccurrence of the Nuisance. (Appendix 2). EPRA does not have confidence in the management ability to prevent causing a public nuisance as they have ignored two previous warnings.

As a result, EPRA is asking the Committee to review the licensing conditions concerning the playing of amplified music at the premises and limit it to finish at 23:00 hours..

Alternatively, the committee may consider a proposal from the owner that will improve the sound insulation of the premises and the installation of a lobby area to avoid noise escape as patrons enter and leave the premises and the inclusion of a properly set sound limiter.

A Warning letter was served

Noise & Nuisance Team
Phone - 020 7525 3171
Our reference: [868972](#)

The Designated Premises Supervisor
Lokma Turkish Grill & Bar Restaurant
11 Bermondsey Square
London SE1 3UN

15 January 2018

FAO: [REDACTED]

Dear Sir,

RE: ENVIRONMENTAL PROTECTION ACT 1990 - SECTION 80
NOISE NUISANCE FROM 11 Bermondsey Square, London, SE1 3UN

On 24 December 2017 at 00.36 hours the Council received a complaint alleging that music coming from your premises was causing a noise nuisance.

I visited in response to the complaint on 24 December 2017 at 01:30 hours and was satisfied that the music was at a level that was causing a statutory nuisance to your neighbours.

As the designated premises supervisor of this premises, you are the person responsible for any noise nuisance being caused. I now ask you to ensure that music from your premises is at all times kept below a level that could cause nuisance to your neighbours. I have taken into consideration your reasons given on the night for having the music on beyond your licensed period and your apologies for the disturbances caused in trying to maintain an orderly crowd control and dispersal on the night by leaving the music on, hence this warning letter. As discussed on the night I will be advising our Licensing Team of this witness event.

The Council may serve a statutory notice requiring the abatement of noise nuisance. If the notice is contravened, legal action may be initiated and for every proven contravention, an unlimited fine may be imposed. The Environmental Protection Act also empowers the Council to obtain a warrant to seize all sound equipment from a premises from which there is recurring noise nuisance.

As a guide to you, music from your premises should not be audible at any time outside your front entrance door. If it is played at a time when your neighbours are likely to be asleep, then it should not be audible outside the door of the room in which it is being played or at any time be more than faintly audible outside it.

I hope that this warning will ensure that no further action will need to be taken by the Council's Noise and Nuisance Team.

Yours sincerely,

[REDACTED] Team Leader
Noise and Nuisance Team

ENVIRONMENTAL PROTECTION ACT 1990, SECTION 80

Abatement Notice in Respect of Statutory Nuisance

To: The Licence Holder [REDACTED]

Of: Lokma Turkish Grill & Bar Restaurant / 11 Bermondsey Square London SE1 3UN

TAKE NOTICE that under the provisions of the Environmental Protection Act 1990 the London Borough of Southwark being satisfied of the Occurrence of a statutory nuisance under section 79(1)(g) of that Act caused by noise emanating from the premises known as: **11 Bermondsey Square London SE1 3UN**

within the district of the said Council arising from : The playing of amplified music or Live music at an excessive level.

HEREBY PROHIBIT the Reoccurrence of the same and for that purpose, require you as the person responsible for the said nuisance to take all reasonable steps to ensure that:-

At any time of the day or night any live music or amplified sound is only played at the above premises at such a level that it is not likely to give rise to a nuisance in adjoining premises or in the neighbourhood.

THIS is NOT a notice under regulation 3 (Suspension of Notices), para 2(a)(ii) of the Statutory Nuisances (Appeals) Regulations 1995, to which regulation 3 applies. 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. "This is due to the nuisance witnessed, being of a limited duration, as such that a suspension of the notice would render it of no practical effect."

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 together with a further fine of an amount equal to one-tenth of the greater of £5000 or level 4 on the standard scale for each day on which the offence continues after conviction. 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.

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 comply with the conditions in accordance with this notice, the Council may seize all the sound equipment from your premises and recover from you the necessary expenditure incurred.

Signed: [REDACTED]

Noise & Nuisance Officer

I CERTIFY THAT THIS IS A TRUE COPY

Dated: 19 February 2018.

Please address any correspondence to: Noise & Nuisance Team, Southwark Council
132 Queens Road, London SE15 2HP
Tel: 020 7525 2450 Fax: 020 7525 2378

SIGNED

N.B. The person served with this notice may appeal against the notice to a magistrates' court within twenty-one days (21), beginning with the date of service of the notice, under section 80(3) of The Environmental Protection Act 1990. See the Statutory Nuisances (Appeals) Regulations 1995 on the reverse of this notice.

The Statutory Nuisance (Appeals) Regulations 1995
Appeals under Section 80(3) of the Environmental Protection Act 1990 ('the 1990 Act')

2.- (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.

(2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case-

- (a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
- (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
- (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;
- (d) that the time, or, where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
- (e) where the nuisance to which the notice relates -
 - (i) is a nuisance falling within section 79(1)(a), (d), (e), (f) or (g) of the 1990 Act and arises on industrial, trade or business premises, or
 - (ii) is a nuisance falling within section 79(1)(b) of the 1990 Act and the smoke is emitted from a chimney, or
 - (iii) is a nuisance falling within section 79(1)(ga) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes that the best practicable means were used to prevent, or to counteract the effects of, the nuisance;
- (f) that, in the case of a nuisance under section 79(1)(g) of the 1990 Act, the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of-
 - (i) any notice served under section 60 or 66 of the Control of Pollution Act 1974 ('the 1974 Act'), or
 - (ii) any consent given under section 61 or 65 of the 1974 Act, or
 - (iii) any determination made under section 67 of the 1974 Act;
- (g) that in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the schedule relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the 1993 Act (loudspeakers in the streets or roads),
- (h) that the abatement notice should have been served on some person instead of the appellant, being -
 - (i) the person responsible for the nuisance, or
 - (ii) the person responsible for the vehicle, machinery or equipment, or
 - (iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
 - (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
- (i) that the abatement notice might lawfully have been served on some person instead of the appellant being -
 - (i) in the case where the appellant is the owner of the premises, the occupier of the premises, or
 - (ii) in the case where the appellant is the occupier of the premises, the owner of the premises,
 and that it would have been equitable for it to have been so served;
- (j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being -
 - (i) a person also responsible for the nuisance,
 - (ii) a person who is also an owner of the premises, or
 - (iii) a person who is also an occupier of the premises,
 and that it would have been equitable for it to have been so served.

(3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in connection with any copy of the abatement notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(4) Where the grounds upon which an appeal is brought include a ground specified in paragraph (2)(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which this regulation applies he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.

(5) On the hearing of an appeal the court may-

- (a) quash the abatement notice to which the appeal relates, or
- (b) vary the abatement notice in favour of the appellant, in such manner as it thinks fit, or
- (c) dismiss the appeal;

and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.

(6) Subject to paragraph (7) below, on the hearing of appeal the court may make such order as it thinks fit-

- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
- (b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.

(7) In exercising its powers under paragraph (6) above, the court-

- (a) shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and
- (b) shall be satisfied, before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

SUSPENSION OF NOTICES

3. (1) Where -

- (a) an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and -
- (b) either-
 - (i) compliance with the abatement notice would involve any person in expenditure on the carrying out of works before the hearing of the appeal, or
 - (ii) in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant, and
- (c) either paragraph (2) does not apply, or if it does apply but the requirements of paragraph (3) have not been met, the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.

(2) This paragraph applies where -

- (a) the nuisance to which the abatement notice relates-
 - (i) is injurious to health, or
 - (ii) is likely to be of a limited duration such that suspension of the notice would render of no practical effect, or
- (b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance,

(3) Where paragraph (2) applies the abatement notice -

- (a) shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court, and

(b) shall include a statement as to which of the grounds set out in paragraph (2) apply.