

LICENSING ACT 2003 SECTION 51

NOTICE OF APPLICATION FOR REVIEW OF PREMISES LICENCE

The **LICENSING AUTHORITY** of Ribble Valley Borough Council, Council Offices, Church Walk, Clitheroe, Lancashire BB7 2RA

HEREBY GIVE NOTICE THAT **ANDREW DENT** (Head of Environmental Health) **RIBBLE VALLEY BOROUGH COUNCIL** has applied to Ribble Valley Borough Council Licensing Authority on **MONDAY 27 APRIL 2026** for the review of the Premises Licence in respect of premises known as **THE AVIARY, QUEEN STREET, WHALLEY BB7 9TA** under the Licensing Act 2003 on the grounds that **ANDREW DENT** does not consider the premises to be promoting the Licensing Objective of **THE PREVENTION OF PUBLIC NUISANCE**

A record of the review application has been placed on the licensing authority's public register:

<https://www.ribblevalley.gov.uk/alcohol-entertainment-licences/licensing-act-reviews>

Any Responsible Authority or Other Person who wishes to make representations regarding this application must give notice in writing to the Licensing Officer (Alcohol & Entertainment), Ribble Valley Borough Council, Council Offices, Church Walk, Clitheroe BB7 2RA or by email to licensing@ribblevalley.gov.uk

Representations must be received between **Monday 27 April 2026** and **Monday 25 May 2026**

Under Section 158 of the Licensing Act 2003 it is an offence to knowingly or recklessly make a false statement in connection with an application. The fine for which a person is liable on summary conviction is unlimited.



Sarah Threlfall
Chief Executive

Dated 27 April 2026

Ribble Valley Borough Council, Council Offices, Church Walk, Clitheroe BB7 2RA

**Application for the review of a premises licence or club premises certificate under the
Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure
that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.
You may wish to keep a copy of the completed form for your records.

I Andrew Dent (Head of Environmental Health) at Ribble Valley Borough Council

**apply for the review of a premises licence under section 51 / ~~apply for the review of a club
premises certificate under section 87~~ of the Licensing Act 2003 for the premises described in
Part 1 below (delete as applicable)**

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
The Aviary, Queen Street,	
Post town Whalley	Post code (if known) BB7 9TA

Name of premises licence holder or club holding club premises certificate (if known)
Triangles leisure Ltd

Number of premises licence or club premises certificate (if known)
1

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible
authority (please read guidance note 1, and complete (A)
or (B) below)

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates
(please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Andrew Dent MCIEH CEnvH MIOA Head of Environmental Health Ribble Valley Borough Council Church Walk Clitheroe Lancashire BB7 2RA
Telephone number (if any) 01200 414466
E-mail address (optional) andrew.dent@ribblevalley.gov.uk

This application to review relates to the following licensing objective(s)

- Please tick one or more boxes ✓
- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 2)

Several residents living on Queen Street, Accrington Road, Woodfield View (Whalley) continue to report to the Council that music noise emanating from the Aviary, Whalley, is audible within their premises at night time and is causing a nuisance/sleep disruption. Low frequency bass has been referenced as being the worse component of the noise.

The Aviary premises licence (PRE(A)0243) has a condition attached to it which was engineered and imposed to control music noise and prevent music noise causing a nuisance to neighbours, this reads:

21. The Premises Licence Holder shall ensure that the music noise level emanating from the premises, between the hours of 21:30 - 09:00, does not at any point exceed:

- 42dBA (Leq, 1 minute)
- 56dBZ (Lmax) at 63Hz
- 46dBZ (Lmax) at 125Hz

Measured from a point 2.9m from the side wall of the premises, and at the midpoint of the rear alleyway to Queen Street and Woodfield View.

In response to recent complaints, Officers from Ribble Valley Borough Council Environmental Health department undertook noise monitoring, with a calibrated class 1 sound level meter, on three separate nights in December 25 and January 2026 (13.12.2025/ 17.01.2026/ 24.01.2026) and found the condition above to have been breached.

It has therefore been concluded that the recent nuisance complaints are substantiated and that a breach of the licensing objective 'the prevention of public nuisance' has occurred.

A review will allow the Council to impose further conditions to help achieve the licensing objective 'the prevention of public nuisance'.

The Condition the Council proposes to add to the premises licence to strictly control music noise is:
Live or amplified music shall only be played on the premises between the hours of 11:00 – 23:00
(daily).

Please provide as much information as possible to support the application (please read guidance note 3)

Attached is a statement and exhibits which corroborate previous noise investigations, previous enforcement action, engagement, and evidence of recent premises licence condition breaches.

Please tick ✓ yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day Month Year

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If you have made representations before relating to the premises please state what they were and when you made them

Please tick ✓

yes

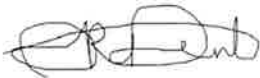
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ✓
- I understand that if I do not comply with the above requirements my application will be rejected ✓

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature



Date: 27.04.2026

Capacity: Head of Environmental Health

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

Licensing Review – Statement of Andrew Dent CEnvH MCIEH MIOA (Head of Environmental Health)

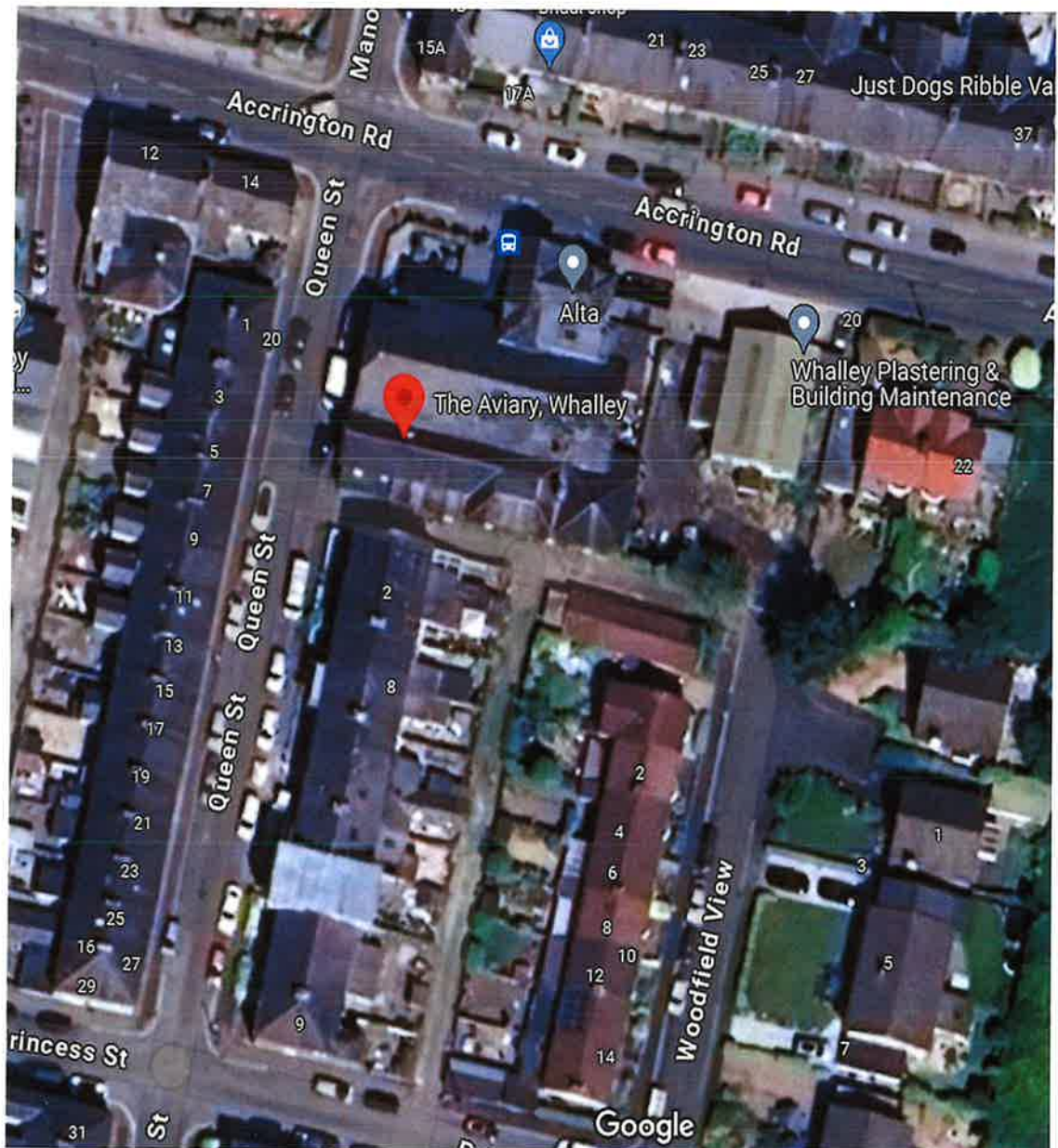
Introduction

1. I am currently employed as the Head of Environmental Health by Ribble Valley Borough Council 'the Council' and have been in the post for 3.5 years. I was appointed to the position on 5 September 2022. Prior to this role, I was Senior Environmental Health Officer (Environmental Protection and Housing) at Craven District Council and was in this post for 6 years.
2. I obtained a BSc (Hons) in Environmental Health in 2010 from Salford University and became a fully qualified Environmental Health Officer in 2015. In 2019, I was awarded Chartered Status by the Chartered Institute of Environmental Health and consequently I am now a Chartered Environmental Health Practitioner. I am also a Member of the Institute of Acoustics, having gained the acoustics diploma from Leeds Beckett University in 2021.
3. I have worked in the field of environmental health for 16 years, dealing with matters relating to statutory nuisance, licencing, anti-social behaviour and housing.

Background

4. The Aviary is a licensed premises located within a residential area of Whalley, accessed from Queen Street. There is also an adjoining neighboring licensed premises called 'Alta' which is accessed from Accrington Road, Whalley.

An aerial photograph of the area is provided below



5. The first noise complaint about music noise emanating from the Aviary was made to the Council on the 26 July 2021 shortly after the premises became operational; the Council has received noise complaints on a regular basis since this date from members of the RAG (Residents Action Group) and other Whalley residents about the unreasonable interference from loud music noise emanating from the Aviary, Whalley, at weekends which causes local residents sleep disruption. No complaints have been received about noise from Alta which adjoins the Aviary building. The RAG is comprised of residents from several properties living within the vicinity of the Aviary, Whalley, on Queen Steet, Accrington Road, and Woodfield View, Whalley.

6. Between the 2 December 2021 and 5 September 2022 officers from the Environmental Health Department engaged with the licence holders/Designated Premises Supervisor (DPS) of the Aviary through meetings, telephone calls and written correspondence, highlighting that noise complaints continue to be received and that subjective monitoring undertaken by Council officers continues to highlight a noise problem solely from the Aviary premises.
7. Between the 2 December 2021 and 5 September 2022, the licence holders/DPS attempted to rectify the noise issue by fitting wooden boarding, foam panels, shutter blinds, and acoustic curtains to the windows of the premises, but officers found these measures to be ineffective.
8. Council officers believed the noise problem existed due to loud music with high bass levels being played within a building with poor sound insulation properties. Consequently, officers requested that an acoustician be appointed to thoroughly assess the sound insulation properties of the premises and to offer recommendations/carry out remediation works as necessary, to reduce noise breakout of the premises to an acceptable level.
9. On 5 September 2022, I began my job role as Head of Environmental Health at Ribble Valley Borough Council and on 30 September 2022, Chelsea Chard (DPS) emailed me confirming that a noise assessment is to be undertaken at a cost of £4000; Chelsea Chard requested a meeting post assessment to discuss how to move forward.
10. On 11 October 2022 at 15:00, I met Jabbar Khan and Chelsea Chard (DPS) at the Aviary, Whalley, to discuss the noise nuisance case. At the meeting both Jabbar Khan and Chelsea Chard disclosed that they will not be undertaking a noise assessment, I explained that this is regretful and that I would undertake some noise monitoring personally and take some readings to establish if the music noise emanating from the Aviary is of a level to cause a statutory/public nuisance.
11. Between October 2022 and March 2023, Officers from Environmental Health carried out noise monitoring from residential properties and the rear alleyway behind the Aviary and continued to identify that music noise emanating from the Aviary was causing a nuisance to residents living in the vicinity. It was therefore determined that it would be prudent to engage with the licence holder/DPS of the Aviary and set an external noise limit to ensure music noise would not cause a nuisance to nearby residents and that could be measured and monitored by Council Officers and Aviary Proprietors.

12. Exhibits AD1 – AD20 are emails between Council officers and the licence holders/DPS of the Aviary that corroborate the background content.

Noise Limit Contained Within the Statutory Nuisance Notice (Withdrawn) and Premises Licence (Extant)

13. On 27 March 2023 at 21:00, myself, Nicola Berry (Environmental Health Officer) and Matthew Riding (Environmental Health Officer) met with Chelsea Chard (DPS) and Jabbar Khan at the Aviary. The purpose of the meeting was to work collaboratively to determine a music noise level of acceptability (from noise breakout at the Aviary) within the bedroom of 2 Queen Street, Whalley (the nearest sensitive receptor); and to establish a noise limit within the backstreet directly behind both the Aviary and 2 Queen Street which could be measured by both the proprietors of the Aviary and the Council – i.e. there would be no need to access a private property for any party to determine if the limits were being exceeded.

14. In determining the noise limit, the volume of house music played through the sound system within the Aviary was gradually reduced from the highest setting until environmental health officers positioned in the bedroom of 2 Queen Street determined the music noise emanating from the Aviary within the bedroom was of an acceptable level so as not to cause a statutory nuisance/public nuisance. Given that statutory nuisance concerns the impact on a particular property and is not a simple matter of a decibel level, it was important part of the process that the limits were set by reference to the experience of noise in the nearest noise sensitive property.

15. When an acceptable music noise level was established within the bedroom of 2 Queen Street, Whalley, noise readings were then taken from the monitoring position shown in **figure 1** during periods where there was no traffic and where plant wasn't operational to establish a noise limit. This noise limit is shown in **table 1**.

Figure 1 –Monitoring Position the Noise Limit Applies to

Microphone position denoted by red dot. Microphone 1.5m from the floor, 2.9m from the wall of The Aviary, 2.4m from the rear wall of 2 Queen Street.

The bedroom window of 2 Queen Street, Whalley, is denoted by a green dot.



Table 1 – External Noise Limit Engineered to Control Music Noise from the Aviary and Prevent Nuisance

Scenario	63Hz (LZMax)	125 Hz (LZmax)	LAeq
Noise Limit - Music Noise level of Acceptability Outside the Aviary/2 Queen Street (i.e., at the red dot above)	56	46	42

16. It was identified by environmental health officers that the music noise level inside the bedroom of 2 Queen Street, Whalley, was acceptable when the bass frequency of the sound system within The Aviary was at its lowest point and this equated to a music noise level on the center of the dance floor of 83 dBA (LAeq).

17. **Table 2** shows the data obtained during a 6-minute reading from within the Aviary with the volume of music at an acceptable level so as not to cause a nuisance inside 2 Queen Street, Whalley.

Table 2 – Noise Reading Taken from the Centre of the Dancefloor of the Aviary When the Music Noise Level Inside the Bedroom of 2 Queen Street Was Determined to Be Acceptable.

Scenario	63Hz (LZMax)	125 Hz (LZmax)	LAeq (6 minutes)
Music Noise level Inside the Aviary deemed to be acceptable so as not to cause a statutory nuisance inside 2 Queen Street, Whalley.	76	87	86

18. The detailed process – done collaboratively with the Aviary and involving the direct experience of noise within residential properties led to the establishing of an appropriate noise limit for avoiding a statutory nuisance/public nuisance.

April 2023 - Letter sent to Chelsea Chard Containing Noise Limit

19. On 13 April 2023, I sent a letter to Miss Chard (DPS) explaining that the noise readings within the bedroom of 2 Queen Street, Whalley on 10 December 2022 were unacceptable. Within the letter the noise limit was also included, and it was requested this be adhered to in order to protect nearby residents against noise nuisance.

20. In the letter, I also explained that the Council will seek to add this condition to the premises licence through a minor variation with mutual consent. Failing this, the Council will have no alternative but to either call the licence in for review or to serve a statutory nuisance

notice under section 80 of the Environmental Protection Act 1990. A copy of the letter is shown in **Exhibit AD21**.

26 May 2023 (Nuisance Monitoring) – Within the Bedroom of 2 Queen Street, Whalley

21. On 26 May 2023, Council officers installed a sound level meter inside the rear bedroom of 2 Queen Street, Whalley, further to regular noise complaints. The Council requested that the occupant pressed the handheld trigger linked to the device when music was being played at the Aviary to obtain a recording and reading of the noise levels within the bedroom with the window open (ajar) for ventilation purposes. The noise monitoring confirmed that the proprietors of the Aviary were not adhering to the noise limit engineered to abate the noise nuisance within the bedroom documented in the letter sent to Miss Chard on 13 April 2023. The noise levels were similar to those I witnessed in the bedroom on previous monitoring visits which were unacceptable and at a level to constitute a statutory nuisance.

22. **Table 3** shows the sound level readings taken within the bedroom and compares these against the World Health Organisation Guideline Levels for inside bedrooms and the external noise limit. It is significant to note that in relation to the 63Hz and 125Hz requirements the noise levels internally exceeded the relevant external limits which are meant to be measured closer to the Aviary. That illustrates the unacceptable levels of noise.

Table 3. Sound Levels Readings from Within the Bedroom of 2 Queen Street, Whalley – 26.05.2023.

Time	LAeq dB	LZmax (63Hz)	LZmax (125Hz)
21:55 – 22:00	39	66	61
23:36 - 23:37	39	63	62
WHO Guideline Level (Inside Bedrooms)	30		
Council Noise Limit (Backstreet directly outside the Aviary/2 Queen St)	43	56	46

Meeting Between Myself and Chelsea Chard (DPS), Jabbar Khan and Naseem Khan at the Aviary – 6 June 2023

23. On 6 June 2023, I met with Chelsea Chard (DPS), Jabbar Khan, and Naseem Khan at the Aviary, Whalley to discuss ways to resolve the music noise emanating from the Aviary and causing a statutory nuisance/public nuisance; I presented the findings of the monitoring undertaken on both 10 December 2022 and 26 May 2023 showing the continuation of the noise problem. I also confirmed that regular noise complaints are still being received by the Council from several residents living within the vicinity. At the meeting I explained the method of abating the nuisance is quite simple, either reduce the music volume to achieve the internal or external levels described in the letter dated 13 April 2023 or appoint an acoustician to carry out a noise assessment in order to robustly detail the sound insulation works required to stop noise breakout from the premises. At this meeting, I also suggested imposing the noise limit as a condition on the premises licence through a minor variation and explained if this isn't agreed to, I will have a legal duty to issue an abatement notice under section 80 Environment Act 1990 to abate the noise nuisance. At the meeting the Aviary proprietors rejected the proposal to add the condition to their premises licence through a minor variation.

24 June 2023 (Nuisance Monitoring) – Outside 2 Queen Street, Whalley.

24. On the 24 June 2023 at 23:10, Nicola Berry (Environmental Health Officer) and Jordan Donohoe (Environmental Health Technical Officer) visited the rear of Queen Street, Whalley to assess music noise emanating from the Aviary.
25. Three, one-minute readings were taken from the monitoring position to identify if the one-minute music noise limits stipulated in the letter sent to the proprietors of the Aviary on the 13 April 2023 were being adhered to, the readings are shown in **table 4**. They were significantly over the Noise Limit.

Table 4. Sound Levels of Three 1 Minute Readings Taken from The Monitoring Position Outside the Aviary Taken Between 23:10 – 23:15 on the 24 June 2023

Time	LAeq (1 minute) dB	LZmax (63Hz, 1 minute)	LZmax (125Hz, 1 minute)
23:10:58 – 23:11:58	50	69	61
23:12:08 – 23:13:10	51	67	60
23:14:02 – 23:15:05	51	67	60
Noise Limit	42	56	46

Serving of the Abatement Notice – 31 July 2023

26. On 31 July 2023, an abatement notice was issued to the premises licence holder of the Aviary to deal with the noise nuisance. The notice was served on Triangles Leisure Limited, Unit 8, Cunningham Court, Blackburn, Lancashire, BB1 2QX. **The condition of the notice requested that “as the persons responsible for the said nuisance and the occupiers of the premises, the council requires you to immediately abate the same and also prohibit the recurrence of the same and for that purpose requires you to: Ensure the music noise level emanating from The Aviary, Queen Street, Whalley, BB7 9TA, between the hours of 21:30 – 09:00, does not at any point exceed 42dBA (Leq, 1 minute), 56 dBZ (Lmax) at 63Hz and 46 dBZ (Lmax) at 125Hz measured from the position shown in appendix 1.**

27. A copy of the notice is shown is **exhibit AD22**, this notice was subsequently appealed.

Noise Limit Breaches During Statutory Nuisance Notice Appeal Period.

27 October 2023 (Nuisance Monitoring) – Outside 2 Queen Street, Whalley.

28. On 27 of October 2023 at 23:25, Nicola Berry (Environmental Health Officer) and Jordan Donohoe (Environmental Health Technical Officer) visited the rear of Queen Street, Whalley to assess music noise from The Aviary, Whalley.

29. Noise readings were taken from the monitoring position stipulated in the abatement notice issued on 31 July 2023 to identify if the noise limits (conditioned under the statutory nuisance abatement notice) were being adhered to, these are shown in **table 5**. They were significantly over the Noise Limit.

Table 5. Sound Levels of Five 1 Minute Readings from The Monitoring Position Outside the Aviary Taken Between 23:28 – 23:35 on the 27 October 2023

Time	LAeq (1 minute) dB	LZmax (63Hz, 1 minute)	LZmax (125Hz, 1 minute)
23:28 – 23:29	50	73	56
23:30 – 23:31	52	74	65
23:31 – 23:32	53	74	65
23:32 – 23:33	51	74	66
23:34 – 23:35	49	71	61
Council Noise Limit	42	56	46

1 December 2023 (Nuisance Monitoring) – Inside the Bedroom of 2 Queen Street, Whalley

30. On 1 December 2023 at 22:50, myself and Nicola Berry visited 2 Queen Street, Whalley to assess music noise from the Aviary within the rear bedroom of the property to identify if the music noise continues to cause a statutory nuisance. The bass noise within the bedroom from music being played within the Aviary was clear, intrusive, and regularly reached 55-56 dBZ at 63Hz and 50dBZ at 125Hz respectively; it was determined a statutory nuisance still existed.

31. **Table 6** shows the highest low frequency sound readings measured within the bedroom of 2 Queen Street, Whalley, over a four-minute period between 23:13:30 and 23:17:30

Table 6 – The Highest Low Frequency Readings (LZmax) Measured Within the Bedroom of 2 Queen Street, Whalley, Between 23:13:30 and 23:17:30

Time	LZmax (63Hz, 1 minute)	LZmax (125Hz, 1 minute)
23:13:30 – 23:14:30	58	50
23:14:30 – 23:15:30	54	51
23:15:30 – 23:16:30	53	47
23:16:30 – 23:17:30	45	49
Council Noise Limit (From external monitoring position)	56	46

21 July 2024 (Nuisance Monitoring) – Outside 2 Queen Street, Whalley.

32. At 00:20 on the 21 July 2024, myself and Nicola Berry undertook a noise reading from the monitoring position shown in the abatement notice to measure noise emanating from the Aviary. The sound level meter had been calibrated to 94dB, the average wind speed in the locality was 2m/s, the temperature was 15C and the cloud cover was 8 oktas. There was slight drizzle at times, the ground conditions were wet. The music noise from the Aviary from the monitoring position was clear, with loud bass levels and was solely emanating from the Aviary. The neighbouring premises 'Alta' was closed on the evening the reading was taken.

The noise reading is shown in **table 7** below.

Table 7 - 1 Minute Reading from The Monitoring Position Outside the Aviary Taken Between 00:29 – 00:30 on the 21 July 2024

Time	LAeq (1 minute) dB	LZmax (63Hz, 1 minute)	LZmax (125Hz, 1 minute)
00:29 – 00:30	55	76	66
Target Noise Level	42	56	46

Statutory Nuisance Notice Withdrawal and Noise Limit Condition Imposed as a Condition on the Premises Licence as a Minor Variation

33. In August 2024, a mutual agreement was made between Ribble Valley Borough Council and Triangles Leisure Ltd. The arrangement was, that Ribble Valley Borough Council would withdraw the abatement notice, on the provision that Triangles Leisure Ltd, would submit a minor variation incorporating the requirements of the abatement notice into a permanent condition of the Aviary premises licence - reference PRE(A)0243 Aviary, Queen Street, Whalley, Clitheroe, Lancashire, BB7 9TA. Consequently, Triangles Leisure Ltd submitted a minor variation application to Ribble Valley's licensing authority, and a new licence was granted by Ribble Valley's Licensing authority on the 6th September 2024. The minor variation amended the former premises Licence adding Condition 21 (discussed below) to the now current Aviary premises licence. After issue of the new premises licence, the abatement notice was then withdrawn by Ribble Valley Borough Council.

34. Condition 21 of the Aviary Premises Licence now states: The Premises Licence Holder shall ensure that the music noise level emanating from the premises, between the hours of 21:30 – 09:00, does not at any point exceed:

- 42dBA (Leq, 1 minute)
- 56 dBZ (Lmax) at 63Hz
- 46 dBZ (Lmax) at 125HZ

measured from a point 2.9m from the side wall of the premises, and at the midpoint of the rear alleyway to Queen's Street and Woodfield View.

Meeting Between Myself, Chelsea Chard (Aviary DPS), Jabbar Khan, Naseem Khan, Lee Hazeldine (Aviary Consultant), Sgt Stephen Dundon (Police Licencing Officer), Steve Maggs (Councils Licencing Enforcement Officer) at the Aviary – 16th October 2024.

35. On the 16th October 2024, a meeting was held at the Aviary premises to discuss the continuing complaints and the position going forward. At the meeting, I explained to the proprietors of the Aviary that during the statutory notice appeal period, the noise limit continued to be breached. The proprietors of the Aviary requested a copy of the readings taken during this period and explained that they were taking noise readings themselves which showed levels to be compliant. However, when I asked to see the sound level meter

being used, it was identified that the readings were being taken using a phone app. I explained a phone app is not accurate and will not measure certain parameters, I strongly advised that an appropriate sound level meter be acquired to take future measurements. Going forward, I also stressed that condition 21 (the noise limit) on the premises licence must be strictly adhered to.

Emails Between Me and Chelsea Chard (DPS) Relating to the Importance of Having a Decent Sound Level Meter that can Accurately Measure Noise and the Importance of Complying with the Noise Limit

36. On the 25th October 2024 I sent an email to Chelsea Chard (DPS) providing the readings taken during the statutory nuisance notice appeal period highlighting the noise limit breaches. I also provided details of sound level meters that were capable of accurately measuring noise. This email is shown in **exhibit 23**.
37. On the 28th October 2024, Chelsea Chard (DPS) emailed me requesting the sound recordings linked to the readings that were sent to her on the 25th October 2024. Chelsea Chard also advised that a budget of £500 has been created for equipment and the sound level meter details I provided to her, far exceed this budget, and unfortunately additional funds cannot be allocated. Therefore, Chelsea enquired as to whether she could borrow the Council's sound level meter so precise readings could be taken. This email is shown in **exhibit 24**.
38. On the 29th October 2024 I emailed Chelsea Chard (DPS) advising that regretfully, the audio from the readings has to be opened via the specific noise software the Council uses, so cannot be sent via email. Nonetheless, I advised that I would forward a video recording taken on the 21 July 2024 between 00:29 – 00:30 which illustrates the noise reading data and music noise. In the email I reiterated that I strongly advise that the Aviary purchase/rent a sound level meter that is capable of accurately taking sound measurements and can measure the relevant sound parameters of the noise limit. Failing to acquire an appropriate sound level meter risks not complying with the premises licence condition, which could result in enforcement action being taken and the premises licence being revoked. I explained that unfortunately, the Council cannot lend its noise equipment out as it is tied up with several ongoing investigations. This email is shown in **exhibit 25**.

Breaches of the Premises Licence - Condition 21

Licencing Condition Breach 1 – 22nd November 2024

39. On the 22nd November 2024 between 23:25 – 23:30 myself and Nicola Berry undertook a noise reading from the monitoring position referenced in condition 21 of the premises licence, to measure music noise emanating from the Aviary. The sound level meter had been calibrated to 94dB, the average wind speed in the locality was 0m/s, the temperature was -1C and the cloud cover was 0 oktas. The weather was clear and dry. The music noise from the Aviary from the monitoring position was clear, with loud bass levels and was solely emanating from the Aviary. The neighbouring premises 'Alta' was closed on the evening the reading was taken.
40. Reviewing the sound level meter at the time of monitoring, the 63Hz band was regularly striking 70dB in line with the bass beat of the song being played. A video recording was taken of this which is shown in **exhibit AD26** and stills from the recording are shown in **Figure 2** below. The noise reading is shown in **Table 9** below.

Figure 2 - Stills from the Video Recording of the Noise Levels at The Monitoring Position Outside the Aviary Between 23:25 – 23:30 on the 22nd November 2024



Table 9 - Noise Reading from The Monitoring Position Outside the Aviary Taken Between 23:25 – 23:30 on the 22nd November 2024

Time	LAeq (1 minute) dB	LZmax (63Hz, 1 minute)	LZmax (125Hz, 1 minute)
23:25 – 23:26	50	73	61
23:26 – 23:27	51	74	66
23:27 – 23:28	50	74	62
23:28 – 23:29	49	76	62
23:29 – 23:30	50	77	60
Target Noise Level	42	56	46

28.11.2024 - Email to Chelsea Chard (DPS) Notifying Her of the Premises Licence Breach

41. On the 28th November 2024, I emailed Chelsea Chard (Designated Premises Supervisor) confirming that complaints about music noise continue to be received and that officers from the Council undertook noise monitoring on Friday 22nd November 2024 from the location specified in the Aviary premises licence and found the noise limit stipulated in the premises licence (and formerly conditioned in the statutory nuisance notice) in clear breach.

42. It was highlighted that the bass frequency was identified to be of particular concern at 63Hz and significantly exceeded the set limit; I also advised that comparing the reading of the 28.11.24 with historical readings taken during the abatement notice appeal period, the sound level at 63Hz is actually shown to be increasing in volume.

43. I also stated that ‘forthwith, it is imperative the music noise is controlled to an acceptable level so as not to cause a nuisance and that the premises licence conditions are adhered to. Should the Council identify further breaches of the premises licence, we will be duty bound to call the licence in for review’. A copy of the email is shown in **Exhibit AD27**.

44. On the 2nd December 2024, Chelsea Chard (DPS) emailed me to advise that they are currently exploring additional options to address the sound challenges. Chelsea advised that over the weekend before last, relocating the speakers was trialled, but unfortunately, the adjustments did not deliver the expected results during the sound check. As a next step, new speakers are being sourced, and a revised layout is being considered. Chelsea

advised that she would be glad to collaborate with the Council during checks, especially if a negative reading arises, to address the issue promptly and reduce sound levels as needed. Chelsea also advised that they have also invested in a noise meter and are conducting regular recordings to monitor and manage sound levels effectively. A copy of the email is shown in **Exhibit AD28**.

Licencing Condition Breach 2 – Saturday 13th December 2025

45. On the 13th December 2025 myself and Jordan Donohoe (Environmental Health Technical Officer) undertook a noise reading from the monitoring position referenced in condition 21 of the premises licence to measure noise emanating from the Aviary. The sound level meter had been calibrated to 94dB, the average wind speed in the locality was 0m/s, the temperature was approximately 10C and the cloud cover was 6 oktas. The conditions were dry, no rain.
46. Subjectively, all the songs played within the Aviary were clearly audible from the monitoring location, this included, beat, lyrics etc. An example of a song being played was 'Horny' by Mousse T. The bass from the music being played was particularly prominent and audible right up the back street in between Queen Street and Woodfield View. The levels were clearly in breach of the limits imposed through the licence.
47. Reviewing the sound level meter at the time of monitoring, the 63Hz band was regularly striking 70dB in line with the bass beat to the songs being played, two video recordings were taken of this which is **exhibited as AD29 and AD30**, stills from the video recordings are shown in **Figure 3**.

Figure 3 - Stills from the Video Recording of the Noise Levels at The Monitoring Position Outside the Aviary Between 23:43 – 23:53 on the 13th December 2025



48. During monitoring, the fire doors serving the Aviary were opened by patrons who spilled out into the alleyway. The music at the monitoring position increased when the fire doors were opened and validated that the music noise and song type audible at the monitoring position was coming directly from the Aviary.

The noise reading is shown in **Table 10**.

Table 10 - Noise Reading from The Monitoring Position Outside the Aviary Taken Between 23:43 – 23:53 on the 13th December 2025

<u>Time</u>	<u>LAeq (1 Minute)</u>	<u>63Hz (Lmax, 1 Minute)</u>	<u>125Hz (Lmax 1 Minute)</u>
23:43 – 23:44	58	70	62
23:44 – 23:45	63	69	62
23:45 – 23:46	53	80	73
23:46 – 23:47	53	77	70
23:47 – 23:48 (Fire doors opened and patrons came out into the alleyway)	63	79	78
23:48 – 23:49 (Fire doors opened and patrons came out into the alleyway)	59	77	62
23:49 – 23:50	52	77	61
23:50 – 23:51	52	78	62
23:51 – 23:52	52	77	62
23:52 – 23:53	52	77	62
Noise Limit	46	56	46

23.12.2025 - Email to Chelsea Chard (DPS) Notifying Her of the Second Premises Licence Breach

49. On the 23 December 2025 at 13:56, I emailed Chelsea Chard (DPS) to confirm that officers from the Council undertook noise monitoring on Saturday 13th December 2025 from the location specified in the Aviary premises licence and found the noise limit stipulated in the premises licence (and formerly conditioned in the statutory nuisance notice) in clear breach.

50. In the email it was referenced that over the last 2-3 months, the Council has received several complaints about the music noise (especially the bass) being intrusive and a nuisance and that the noise levels observed on the 13.12.25 appear to substantiate these claims.

51. I reiterated again that it is absolutely imperative the music noise from the Aviary is controlled to an acceptable level so as not to cause a nuisance to neighbouring residents and that the premises licence conditions are strictly adhered to. Should the Council identify further breaches of the premises licence, we will be duty bound to take action, this may include calling the licence in for review or prosecuting for breach of licence conditions.

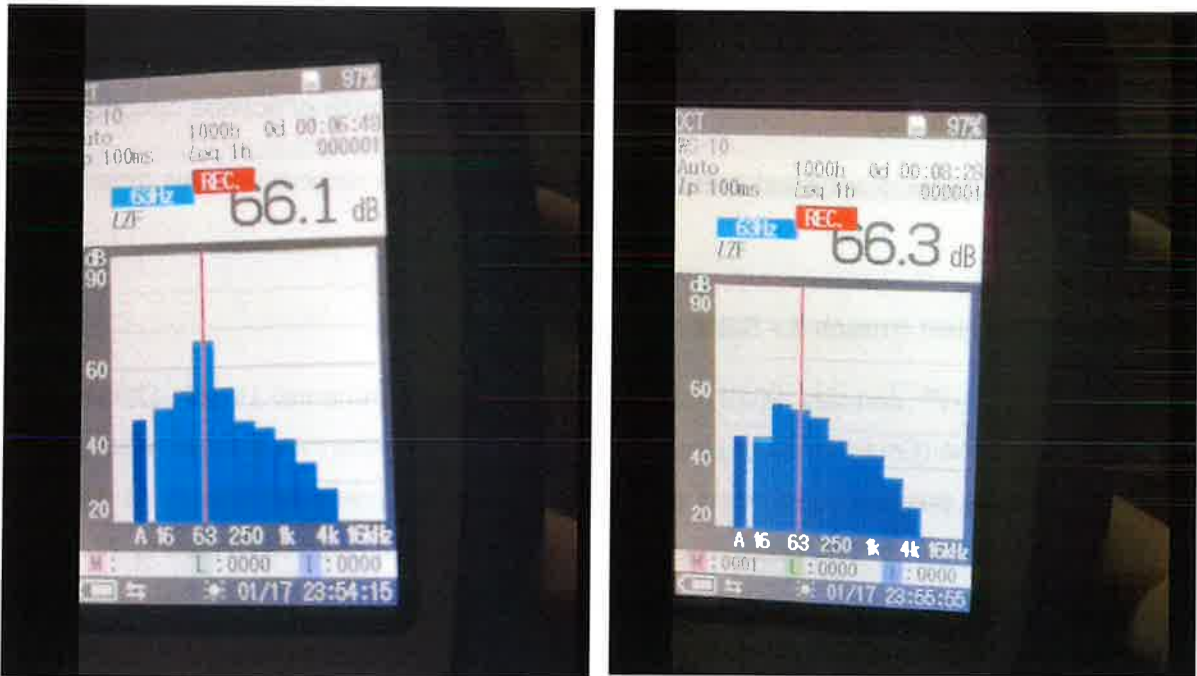
A copy of the email is shown in **exhibit AD31**. There was no response to this email

Licensing Condition Breach 3 - Saturday 17th January 2026

52. On Saturday 17th January 2026, Matthew Riding (Environmental Health Officer) and Jordan Donohoe (Environmental Health Technical Officer) undertook a noise reading from the monitoring position referenced in condition 21 of the premises licence to measure noise emanating from the Aviary. The sound level meter had been calibrated to 94dB, the average wind speed in the locality was 0m/s, the temperature was 3C and the cloud cover was 3 oktas. The weather was clear and dry.

53. The officers undertaking the monitoring noted that subjectively, the bass in particular was noticeable down the back street between Queen Street and Woodfield View. Reviewing the Sound Level Meter whilst monitoring, the overall LAeq dB level wasn't as bad as it has been on previous visits, and subjectively the officers were not able to 'name that tune', however, the bass was perceived to be a problem and this was replicated in the 63Hz level on the sound level monitor which was visibly bouncing at times; a video of this is shown in **exhibit AD32** and stills from the recording are shown in **Figure 4**.

Figure 4 - Stills from the Video Recording of the Noise Levels at The Monitoring Position Outside the Aviary Between 23:49 – 23:57 on the 17th January 2026



54. The Officers confirmed that the music was without doubt coming from the Aviary and not other venues i.e. ALTA. On the evening of monitoring, ALTA was closed; this was confirmed by a visual drive past of the venue (all lights off, no bouncers outside etc.)

The noise reading is shown in **Table 11** below.

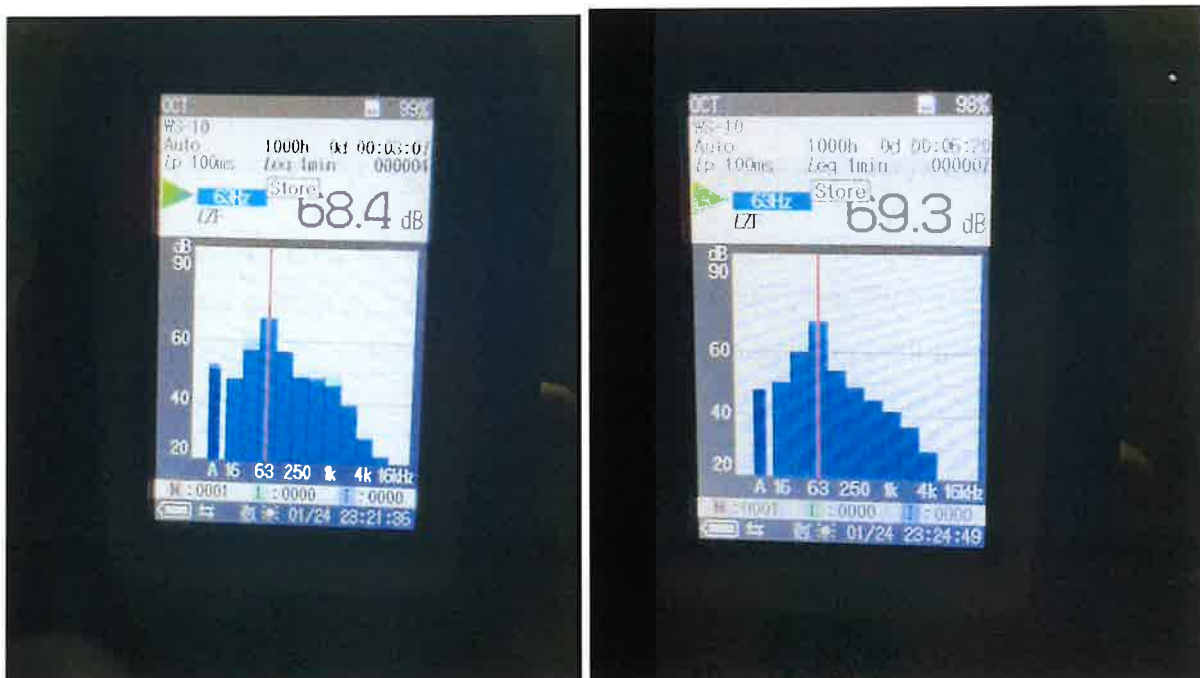
Table 11 - Noise Reading from The Monitoring Position Outside the Aviary Taken Between 23:49 – 23:50 on the 17th January 2026

Time	LAeq (1 Minute)	Lmax (63Hz)	Lmax (125Hz)
23:49 – 23:50	46	70	58
23:50 – 23:51	47	65	57
23:51 – 23:52	47	66	57
23:52 – 23:53	47	66	54
23:53 – 23:54	47	67	57
23:54 – 23:55	45	67	57
23:55 – 23:56	46	67	57
23:56 – 23:57	47	70	58
Noise Limit	42	56	46

Premises Licence Breach 4 - Saturday 24th January 2026

55. On Saturday 24th January 2026, Nicola Berry (Environmental Health Officer) and Jordan Donohoe (Environmental Health Technical Officer) undertook a noise reading from the monitoring position referenced in condition 21 of the premises licence to measure noise emanating from the Aviary. The sound level meter had been calibrated to 94dB, the average wind speed in the locality was 0.4m/s, the temperature was 6C and the cloud cover was 5 oktas. There was slight drizzle at times, the ground conditions were wet.
56. The officers undertaking the monitoring noted that the predominant noise audible from the monitoring position was dance music. Listening to the dance music it was possible to hear a clear bass beat, and it was also possible to determine the song had a female vocal. It could be clearly observed that the 63Hz frequency band on the sound level meter moved up and down in line with the bass beat coming from the Aviary building. A video was taken observing the sound level meter during the recording to demonstrate the fluctuating levels at 63Hz and the exceedance of the noise limit, this video is shown in **exhibit AD33**; stills from the recording are also shown in **Figure 5**. Towards the end of the monitoring observation officers were able to identify the track "At night" by Shakedown.

Figure 5 - Stills from the Video Recording of the Noise Levels at The Monitoring Position Outside the Aviary Between 23:20 – 23:28 on the 24th January 2026



57. At 23:36 Officers passed the neighbouring premises 'Alta' and observed that this premises was closed. There were no bouncers present outside Alta, and the front door of Alta was shut; the entrance was in darkness. Officers could therefore determine the music noise readings taken were only emanating from the Aviary.

The noise reading is shown in **Table 12** below.

Table 12 - Noise Reading from The Monitoring Position Outside the Aviary Taken Between 23:49 – 23:50 on the 24th January 2026

Time	LAeq (1 Min)	LMax (63Hz)	Lmax (125 (Hz)
23:20 – 23:21	55 *	74	68
23:21 – 23:22	49 *	70	58
23:22 – 23:23	49 *	70	60
23:23 – 23:24	47	70	58
23:24 – 23:25	48	72	57
23:25 – 23:26	48	70	52
23:26 – 23:27	50 *	72	69
23:27 – 23:28	58 *	70	69
Noise Limit	43	56	46

*Throaty car exhaust in locality increases level.

Decision to Call the Aviary Premises Licence in for Review

58. Section 4, Licencing Act 2003 sets out general duties of licencing authorities and states 'a licencing authority must carry out its functions under the Act ('licencing functions') with a view to promoting the licencing objectives, one of these being 'the prevention of public nuisance'.

59. Noise complaints about music noise emanating from the Aviary have been regularly received by the Council since 2021 when the Aviary initially opened and noise complaints continue to be received by the Council to date. As evidenced in this statement, the Council has tried to resolve the noise problem by engaging with the proprietors i.e. offering advice, setting a noise limit, taking enforcement action; but regretfully noise issues persist and recent monitoring has identified several breaches of condition 21 of the premises licence.

On this basis, the Council has determined it is duty bound to call the licence in for review with the view of imposing a further condition to deal with the noise nuisance to help promote the licencing objective 'the prevention of public nuisance'.

60. On the 11th March 2026, I emailed Chelsea Chard (DPS) advising that regretfully, further to my email dated 23.12.25, a high volume of complaints continue to be received by the Council relating to music noise emanating from the Aviary and causing a nuisance to local households in the late evening/early hours, at weekends. I advised officers from the department carried out further monitoring on two separate Saturday evenings in January 2026 and found that the noise limit conditioned in the Aviary premises licence (condition 21) was being clearly breached on both occasions.

61. It was explained that given the continuation of complaints and the identification of clear breaches of condition 21, which was imposed to protect residents against nuisance; Environmental Health's position is that we have no option but to call the Aviary Licence in for review, with the purpose of imposing further restrictions to prevent nuisance. This email is shown in **exhibit AD34**.

Proposed Condition to be Added to the Premises Licence via a Review to Help Promote the Licencing Objective 'The Prevention of Public Nuisance'.

62. The Condition the Council proposes to add to the premises licence to strictly control music noise is: Live or amplified music shall only be played on the premises between the hours of 11:00 – 23:00 (daily).

63. The noise limit contained within condition 21 of the Aviary Premises Licence will still apply between the hours of 21.30 – 23.00.

From: Peter Lancaster
Sent: 03 December 2021 11:00
To: Matthew Riding
Subject: The Aviary 2nd December 2021.

Hi Matt,

Quick update on the visit to the Aviary with Jason Middleton Thursday 2nd December.

Jason and I met with Chelsea (DPS) and Jabbar (Business partner) to discuss the ongoing concerns with music escaping from the premises.

As always, both Chelsea and Jabbar were happy to welcome us to their premises to discuss the concerns. The biggest problem we are currently facing are the bass levels which some of the residents are feeling through the vibrations in their properties which is leading to sleep deprivation.

Chelsea and Jabbar had already put a number of noise mitigation measures in place before they opened to the public as The Aviary as they had heard local residents had made a number of complaints about the premises when it was trading as Brady's. They purchased a large quantity of theatrical acoustic curtaining which has been placed over the front window facing the properties on Queen Street (so far, no complaints have been received from these properties despite some of them being on the market for sale) As well as the acoustic curtaining, shutters have been fitted to the windows down the alley way running along side Queen Street leading to Woodfield View, according to Chelsea and Jabbar, they have been told by these residents they don't hear any noise from the premises at all.

On the 19th October both Jason and myself met with Chelsea and Jabbar to discuss their premises licence. Part of their licence states they must record noise levels externally from the premises for which they provided written evidence of, and showed us the handheld device they use (very similar to the one we use in the department)

It was suggested at the meeting that they should consider installing some acoustic measures to the rear of the premises where ¹ experience the bass levels from their bedroom. Jabbar contacted a noise consultant and was told that although Kingspan was suggested, it is only used for insulation rather than acoustic measures and would make very little difference, this was offered in writing by the consultant if required.

At the meeting on the 2nd December, I suggested Chelsea and Jabbar contact their sound engineer and arrange to meet with Jason and myself on site with a view to setting some levels which cannot be altered/overridden from the DJ booth. There is currently a noise limiter which is under lock and key in the kitchen area to stop levels being increased from the DJ's mixer unit, however, there is also a small unit next to the DJ booth which I suspect can be altered by the DJs to gradually increase the volume. Chelsea agreed to contact us when she has secured a date and time to meet with their sound engineer.

Whilst Michaela was in employment with RVBC, she visited the premises late at night on a couple of occasions and wasn't concerned by the level of music audible outside of the premises.

I'll keep you updated after the next meeting at The Aviary.

Regards

Peter Lancaster

Environmental Health Technician (Pollution)

Email: peter.lancaster@ribblevalley.gov.uk

Direct Line: 01200 414463



Ribble Valley
Borough Council

www.ribblevalley.gov.uk

Dear Sir or Madam

LICENSING ACT 2003

ENVIRONMENTAL PROTECTION ACT 1990

**The Aviary, Queen Street, Whalley, Clitheroe, BB7 9TA. Premises Licence PRE(A)
0243**

Loud bass beat music causing noise disturbance.

I refer to ongoing concerns about noise disturbance arising from loud bass music at The Aviary, Whalley, causing disturbance to residents living nearby.

I note your willingness and efforts to try to resolve the noise issues, including installation of a noise limiting device on the power supply to your sound system, and checking outside of the club to ensure the music is not audible at nearby dwellings.

On the 2nd December 2021, my colleagues Peter Lancaster (Environmental Health) and Jason Middleton (Licensing Enforcement Officer) visited The Aviary to discuss your Premises Licence and also the ongoing concerns from neighbouring residents who are regularly affected by the bass levels emanating from The Aviary. During the visit, Peter suggested reducing the bass level on the limiter to see if this would alleviate the problem, this was agreed and was carried out under the supervision of Jabbar.

For the following two weekends, Friday 3rd and Saturday 4th December and Friday the 10th and Saturday 11th December, there were no complaints received regarding noise from the premises with the exception of the NHS staff party held on Thursday 9th December.

However, residents have continued to inform us that they were disturbed by loud music during the weekend of Friday 17th and Saturday 18th December, more noticeably on Saturday when there appeared to be a considerable increase in volume at 22:00. The residents told us that the bass beat of the music was clearly audible inside their homes into the early hours of the morning and that they couldn't sleep because of the noise.

I would remind you that you are required to meet the objectives of the Licensing Act 2003 including the prevention of public nuisance. You are also required to comply with the conditions of your Premises Licence. Of particular relevance are the following numbered conditions in Annex 2, 'Conditions Consistent with the Operating Schedule' :-

- 6 No nuisance shall be caused to any sensitive premises by noise from regulated entertainment coming from the licensed premises, or by vibration transmitted through the structure of the premises.
- 18 Live or recorded music which is directed through speakers will be subject to a noise – limiting device set to a level in consultation with the Council's Environmental Health Officer, and thereafter retained at that level.
- 19 The Designated Premises Supervisor or their representative shall on every occasion the premises are used for regulated entertainment make a check of the external noise level at regular intervals, to ensure that sound levels are reasonable and not affecting noise sensitive premises. Appropriate steps will be taken to reduce the level of noise where it is likely to cause a disturbance to local residents. Written logs will be retained which will include the date, time, the person making the checks, the result and any remedial action taken if necessary. Where a noise complaint is made to the management of the premises, a written record shall be made and retained for a minimum period of 3 months.

Your efforts to prevent public nuisance to date have been appreciated. However, as we are still receiving complaints from residents that they are being disturbed by the bass beat of the music from The Aviary, we are obliged to investigate and to continue to monitor the situation.

I would remind you that should the Council be satisfied that the licensing objectives are not being met, we are obliged to consider enforcement options. This may include seeking to review the Premises Licence, or, that if a statutory nuisance is occurring, consideration will be given to the service of a noise abatement notice.

I would appreciate your observations on this matter together with the steps you intend to take to control bass music noise from The Aviary and prevent public nuisance.

Yours faithfully

Matthew Riding

Acting Head of Environmental Health Services

Iconic Leisure Ltd
The Aviary
Queen Street
Whalley
Clitheroe
BB7 9TA

From: Angela Smith
Sent: 11 January 2022 15:59
To:
Cc: Environmental Health; Peter Lancaster
Subject: Music noise from The Aviary

Good afternoon Chelsea
I'm writing to you in your capacity as DPS for the Aviary

I refer to our letter to you of 21 December 2021 when we outlined the ongoing concerns with night time music noise from the Aviary affecting people living nearby and disturbing their sleep.

The residents have been in touch this week and said there was a significant difference to noise in the area this weekend when the Aviary was not open. They report that their sleep was not disturbed and they felt refreshed the next day.

We note that you are reopening on 14th January 2022 and would appreciate if you would email us with the steps you have taken to minimise noise arising from the premises, particularly in the light of our letter of 21st December.

I look forward to hearing from you. Please email EnvironmentalHealth@ribblevalley.gov.uk

Kind regards
Angela

Angela Smith
Temporary Environmental Health Officer
(Part time – Mondays and Tuesdays)
Ribble Valley Borough Council
01400 414464

Subject: FW: Music noise from The Aviary

From:

Sent: Tuesday, January 11, 2022 5:33 PM

To: Angela Smith <Angela.Smith@ribblevalley.gov.uk>; Environmental Health <EnvironmentalHealth@ribblevalley.gov.uk>

Cc: Jason Middleton <Jason.Middleton@ribblevalley.gov.uk>

Subject: Re: Music noise from The Aviary

 **External Email**

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Good Afternoon Angela,

I am currently away in Spain until Friday morning. I received the letter on 21st December and not long before then spoke with Peter & Jason.

When we took over The Aviary we put several measures in place, which I have discussed at length with them. We keep records of the noise levels each hour which are always within the allowed levels. We bought our own decibel reader to monitor this. The noise levels are within the regulations set out in our license and we have already put extra measures in place to reduce any noise. Therefore we are not 'causing a nuisance' with noise, as it is within these levels, it is hearsay of a certain couple of neighbours who have an issue with us being open and are persistent complainers.

We have already spent money on reducing the noise, anything further will be extremely costly to us.

When I met with Peter and Jason, they understood this, they had had a report that there was difference in noise levels between one weekend to the next, however we did everything the same.

It seems we are constantly communicating with different people regarding this issue, who don't know the history of discussions we have already had. Please can you let me know who is the person I should be dealing with regarding this as it seems to be passed around and we need one point of contact?

Kind Regards

Chelsea

From: Peter Lancaster
Sent: 18 January 2022 16:50
To:
Cc: Matthew Riding; Stephen Barker; Angela Smith; Jason Middleton; Steve Maggs
Subject: The Aviary - 14th and 15th January 2022

Hi Chelsea,

Hope you're keeping well.

Just thought you'd like some feedback from the local residents following the weekend of the 14th and 15th January 2022.

I'm pleased to report that no noise was heard over the weekend and that, in their words "has improved the quality of the weekend tenfold"

Following two good nights, uninterrupted sleep, the residents have said they feel totally refreshed and "can live like that"

There was one incident that was witnessed where there was some shouting outside the front doors of the Aviary, your door staff swiftly moved the revellers to the end of Queen Street/Accrington Road so not to disturb the residents. The residents would like to thank them for dealing with the situation so efficiently and professionally.

I'm not sure what changes have been made over the weekend, different DJ? Reduction in bass levels on the limiter? Additional acoustic measures? Can I please ask for the sake of ALL parties concerned that this can continue going forward.

Please feel free to give me a call if you wish to discuss further 01200 414463.

Best wishes

Peter Lancaster

Environmental Health Technician (Pollution)

Email: peter.lancaster@ribblevalley.gov.uk

Direct Line: 01200 414463



Ribble Valley
Borough Council

www.ribblevalley.gov.uk

Subject: FW: The Aviary - 14th and 15th January 2022

From:

Sent: Wednesday, January 19, 2022 11:29 AM

To: Peter Lancaster <peter.lancaster@ribblevalley.gov.uk>

Cc: Angela Smith <Angela.Smith@ribblevalley.gov.uk>; Jason Middleton <Jason.Middleton@ribblevalley.gov.uk>

Subject: Re: The Aviary - 14th and 15th January 2022

⚠ External Email

This email originated from outside Ribble Valley Borough Council. Do **NOT** click links or open attachments unless you recognize the sender and are sure the content within this email is safe.

Good Morning Peter,

Hope you are well. We had the same DJ on at the weekend and we kept checking the sound levels too as normal. So from our point nothing has changed.

However after the discussion we had before Christmas, myself, Jabbar & Nadeem have had a meeting and decided due to some residents still making complaints we have decided to put another measure in place.

We have ordered sound proof foam panels (please see below), which are due to be delivered today and fitted before the weekend. We have ordered enough for all windows along the side and back of the property. As well as fitting these, we are also going to board up the windows from the outside, as an extra measure to help with any noise reduction.

As we have explained in the past we have already put measures in place, and we are operating within the guideline set out, the noise isn't causing a nuisance and I want to be clear that we are doing this as an extra measure, which is costing us quite a lot, to try and further help the situation - despite us being within the guidelines set to by the council.

If you wish to pass this information onto the neighbours that is fine.

Kind Regards

Chelsea

12 Pcs Acoustic Foam Panels, 1" X 12" X 12" Acoustic Panels Studio
Foam Tiles with High Density, Fireproof Soundproofing Foam Noise
Cancelling Foam for Recording Studios, Offices, Home
Studios(Black)



On 18 Jan 2022, at 16:50, Peter Lancaster <peter.lancaster@ribblevalley.gov.uk> wrote:

Hi Chelsea,

Hope you're keeping well.

Just thought you'd like some feedback from the local residents following the weekend of the 14th and 15th January 2022.

I'm pleased to report that no noise was heard over the weekend and that, in their words "has improved the quality of the weekend tenfold"

Following two good nights, uninterrupted sleep, the residents have said they feel totally refreshed and "can live like that"

There was one incident that was witnessed where there was some shouting outside the front doors of the Aviary, your door staff swiftly moved the revellers to the end of Queen Street/Accrington Road so not to disturb the residents. The residents would like to thank them for dealing with the situation so efficiently and professionally.

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Please feel free to give me a call if you wish to discuss further 01200 414463.

Best wishes

Peter Lancaster

Environmental Health Technician (Pollution)

Email: peter.lancaster@ribblevalley.gov.uk

Direct Line: 01200 414463

<image001.jpg>

Disclaimer

Tops for resident satisfaction – 79% of residents are satisfied with Ribble Valley as a place to live (Perception Survey 2018)

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Subject: FW: Re The Aviary, Queen Street, Whalley : Nuisance from Loud Music

From: Phil Livesey <Phil.Livesey@ribblevalley.gov.uk>

Sent: 04 May 2022 17:21

T.

Cc: Matthew Riding <Matthew.Riding@ribblevalley.gov.uk>

Subject: Re The Aviary, Queen Street, Whalley : Nuisance from Loud Music

Dear Chelsea,

Thankyou for the meeting this afternoon at the Aviary, regarding the above issue, which the co-owners also attended.

I wish to confirm that whilst it is appreciated that some sound insulating works have been carried out to this premises, they are proving insufficient to address the nuisance from loud music. This has been determined by night -time visits to the area, when loud music was witnessed by council officers outside your premises.

As agreed, please can you arrange for your acoustic consultant to phone me next Wednesday to discuss what their proposals would be for undertaking a thorough acoustic assessment of the premises. This should include recommendations for sound remediation works, to reduce the volume of music outside to acceptable levels. I would also like to discuss what previous works have been carried out.

Please could you also forward any documentation from Ribble Valley Borough Council advising you about the acceptability of a sound level of 45dB.

Thankyou for your cooperation with this matter

Yours sincerely,
Phillip Livesey
Temporary Environmental Health Officer.
(Wednesdays)
Tel: 01200 414466

Subject: FW: Re The Aviary, Queen Street, Whalley : Nuisance from Loud Music

From:

Sent: 10 May 2022 18:22

To: Phil Livesey <Phil.Livesey@ribblevalley.gov.uk>

Cc: Matthew Riding <Matthew.Riding@ribblevalley.gov.uk>

Subject: Re The Aviary, Queen Street, Whalley : Nuisance from Loud Music

External Email

This email originated from outside Ribble Valley Borough Council. Do **NOT** click links or open attachments unless you recognize the sender and are sure the content within this email is safe.

Good Afternoon Phillip,

Hope you are well. Our sound engineer is currently away until Thursday 19th May on annual leave, would you be free for a telephone call that afternoon?

We have been in touch with a company for an acoustic assessment report and are awaiting for them to contact us with a date they can come out.

After seeing the video taken by yourselves outside our fire exit, we have taken extra measures to further reduce the sound since our meeting. We have bought extra sound proofing - see pictures attached and put on all windows and boarded up the remaining windows at the side and back fo the property. We have also removed a speaker which is placed directly above where the video was taken, which we see as the weakest point regarding noise levels, as you also suggested.

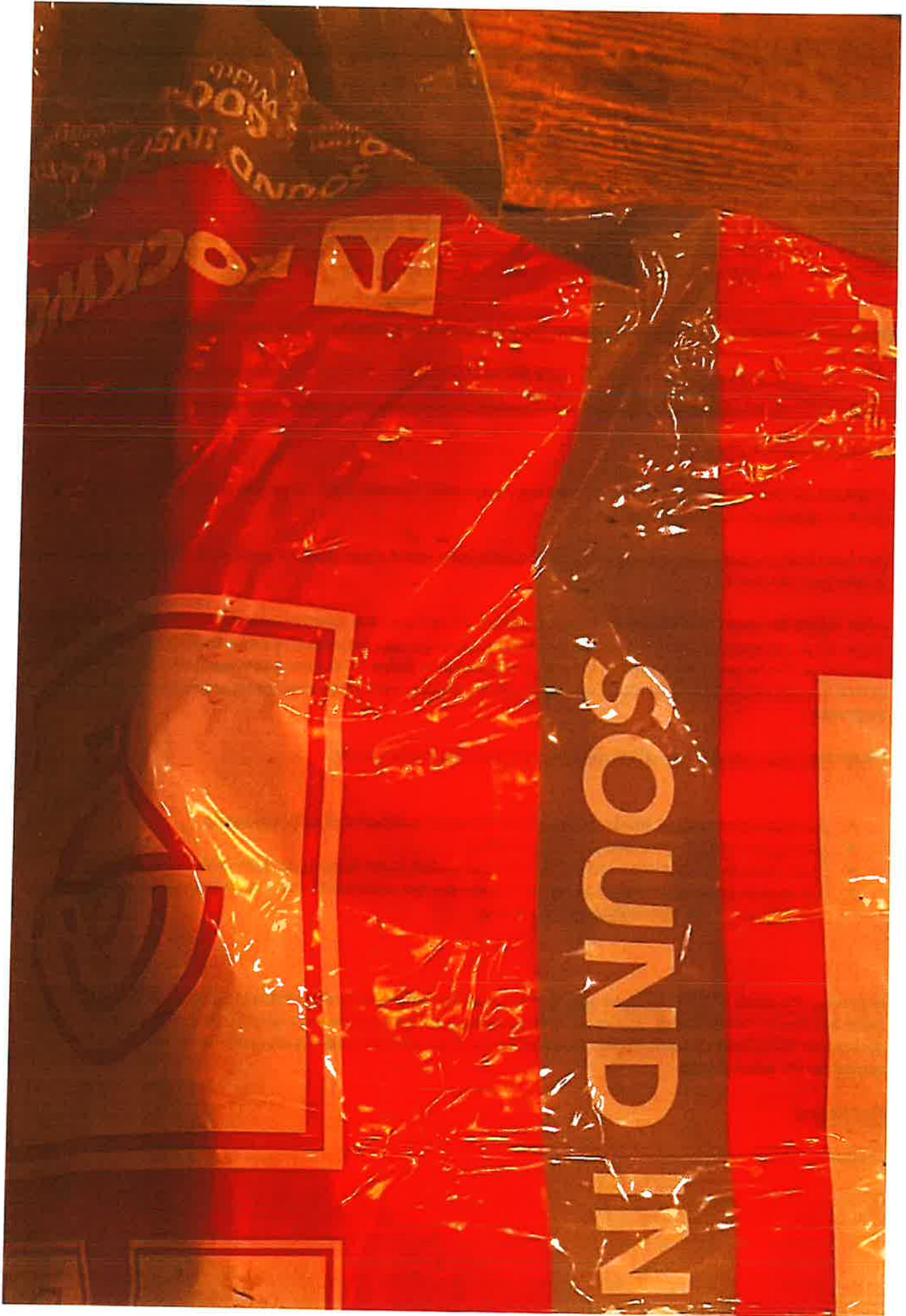
Please see below a brief recap of the measures we have put in place so far;

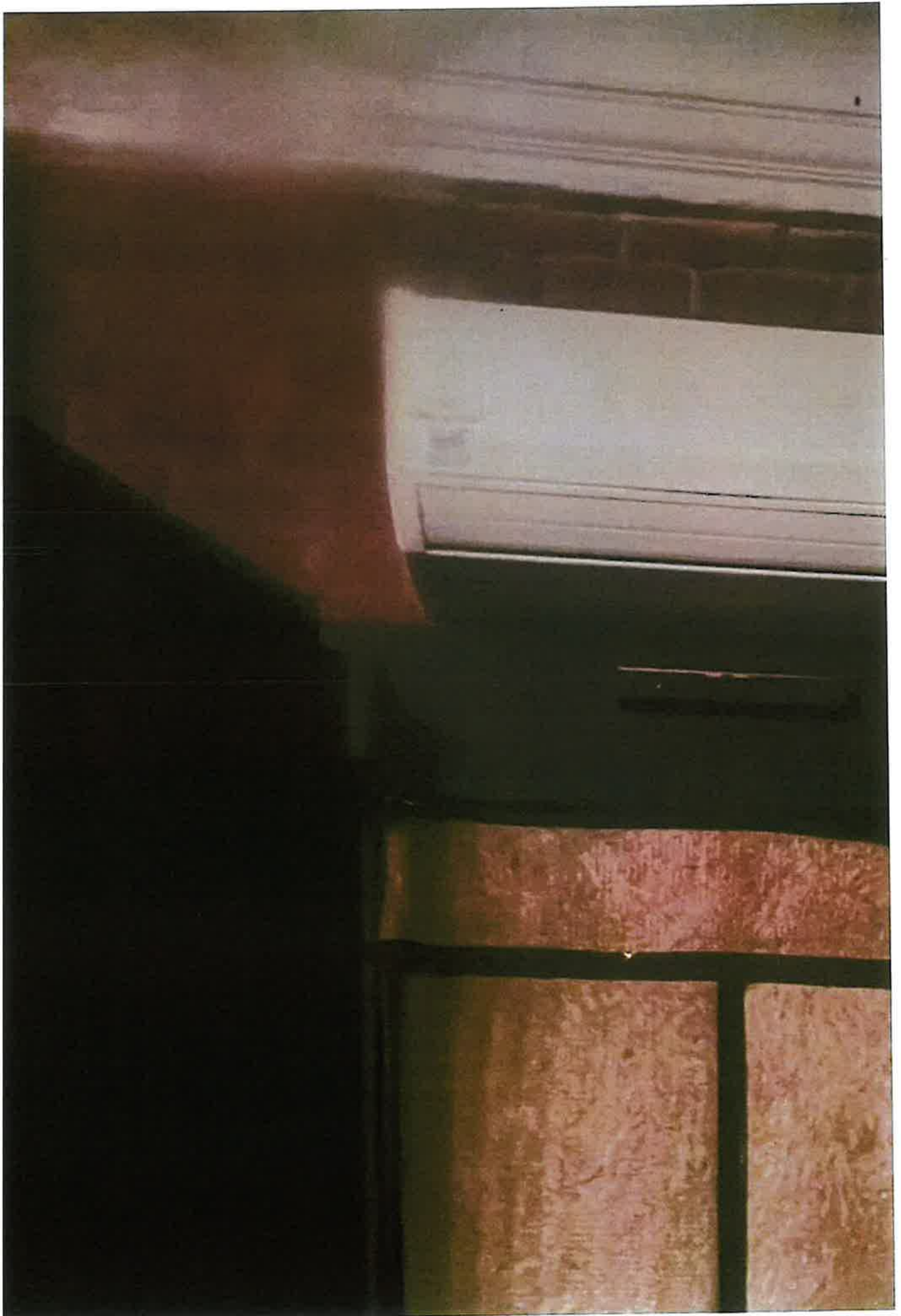
- Soundproofed and put shutter blinds inside the venue and boarded the windows up
- Soundproof curtains covering the front windows
- Sound checks taking place every 30 minutes as is stated in our license, we have records of this as well.
- We used to have issues regarding the bass beat - this has not been the case since last year as we have altered our settings so this does not cause disturbance.

Regarding the levels of 45dB, we were told that this was the maximum level by Peter Lancaster in a meeting which Jason Middleton also attended. As a result of this meeting, we then purchased a decibel meter to ensure we could stick within these limits. They have also attended to check our decibel reader is set up the same and recording the correct levels, which it was.

Kind Regards

Chelsea





Subject: FW: Re The Aviary, Queen Street, Whalley : Nuisance from Loud Music

From:

Sent: Wednesday, May 11, 2022 4:04 PM

To: Phil Livesey <Phil.Livesey@ribblevalley.gov.uk>; Matthew Riding <Matthew.Riding@ribblevalley.gov.uk>

Cc: Jason Middleton <Jason.Middleton@ribblevalley.gov.uk>

Subject: Re: Re The Aviary, Queen Street, Whalley : Nuisance from Loud Music

 **External Email**

This email originated from outside Ribble Valley Borough Council. Do **NOT** click links or open attachments unless you recognize the sender and are sure the content within this email is safe.

Dear Matthew,

This afternoon, approximately 30 minutes ago, NAME REDACTED has approached the co-owners of the aviary whilst they are boarding up the back windows, verbally abusing them and using racist comments.

She has threatened to call the police as they are apparently trespassing, which is untrue, Jonny from Rios has given us permission to go on his land to access the back windows. She specifically told them not to board the windows up. I have reported this kind of behaviour before and this is now the third time it has happened.

We are doing everything we can do to resolve any issues, this behaviour towards the co-owners is unacceptable and we will have to report it.

Kind Regards

Chelsea

From: Phil Livesey
Sent: 11 May 2022 14:57
To:
Cc: Matthew Riding
Subject: Re The Aviary, Queen Street, Whalley : Nuisance from Loud Music

Dear Chelsea,
Thankyou for your email regarding the above.
This weekend a complainant advised us that there had been some improvement with the noise nuisance from The Aviary's music, which is positive news. However a lasting solution to the noise issue is needed and the requirement for a noise assessment still stands.
I would be pleased to speak to your sound engineer and will phone them pm on Thursday 19th whilst I am on leave, but I'm happy to due to the importance of this case. Please provide a contact No for them.
You mentioned you had contacted a company for an acoustic assessment and were awaiting a visit, as previously discussed it is crucial they speak to me regarding their proposals for an assessment, to ensure they are in line with what we would require from an assessment.
I note the additional sound insulation measures you have carried out and will monitor any change.
Thankyou for your cooperation with this matter.

Yours sincerely,

Phillip Livesey
Temporary Environmental Health Officer
Tel 01200 414466

Subject: FW: Re The Aviary, music noise issue

From: Phil Livesey
Sent: Wednesday, May 18, 2022 9:34 AM
To:
Subject: Re The Aviary, music noise issue

Dear Chelsea,

I refer to my last email to you, which included a request for a contact No for your sound engineer, so I can contact them tomorrow, Thursday 19th. Unfortunately, I haven't received it yet.

Please forward it today before 16:30 as I'm on leave tomorrow.

Also I wondered if there had been any progress in respect of the company you have approached to do the acoustic assessment?

Thankyou for your cooperation.

Yours sincerely,

Phil Livesey

Temporary Environmental Health Officer
Tel 01200 414466

Subject:

FW: The Aviary Noise Complaints

On 22 Jun 2022, at 15:49, Phil Livesey <Phil.Livesey@ribblevalley.gov.uk> wrote:

Dear Chelsea,

I refer to my visit to The Aviary on the 4th May, 2022, with Matthew Riding in connection with the above issue. I followed this up with an email to you on the day, confirming our discussions and your agreement to engage an acoustic consultant.

To date I have received no confirmation of when an acoustic assessment will take place, neither have I received any contact from the consultant you have engaged. This is despite my emails reminding you of this commitment on the 11th and 18th May, 2022.

This assessment is still needed as we continue to receive complaints. I would therefore request that you inform me as a matter of urgency when the assessment is to be carried out. It is also recommended that the consultant contacts me prior to carrying out an assessment, to ensure it meets our requirements.

I look forward to you getting in contact.

Yours sincerely,
Phil Livesey
Temporary Environmental Health Officer
Tel 01200 414466

Subject: FW: The Aviary Noise Complaints

From

Sent: Thursday, June 23, 2022 9:22 PM

To: Phil Livesey <Phil.Livesey@ribblevalley.gov.uk>

Subject: Re: The Aviary Noise Complaints

 **External Email**

This email originated from outside Ribble Valley Borough Council. Do **NOT** click links or open attachments unless you recognize the sender and are sure the content within this email is safe.

Good Evening Phil,

After the meeting we all attended we did speak to a company to arrange them coming to do a full assessment. I am yet to arrange a date as since the meeting, I passed you the details of our sound consultant who you had a conversation with on Thursday 19th May and we haven't heard anything back from you since?

In a previous email I explained we had done more work since our meeting and I have had 2 conversations with Jason Middleton, one via email and one in person last Friday where he confirmed there hadn't been any complaints regarding the music level and what we have done seems to have solved the problem ?

Can you please clarify whether or not there have been complaints regarding the music level and what dates these were as I feel like we are being given different information and since the extra work (the extra insulation on all windows and boarding u the back windows - pictures I sent to you on email) has been done it has made a massive difference.

Kind Regards

Chelsea

AD14

Subject: FW: The Aviary Noise Complaints

From: Phil Livesey
Sent: Wednesday, June 29, 2022 4:52 PM
To:
Cc: Matthew Riding <Matthew.Riding@ribblevalley.gov.uk>
Subject: RE: The Aviary Noise Complaints

Dear Chelsea,

Thankyou for your E mail regarding the above.

I wish to confirm that I did contact your sound consultant, who advised me he just installs sound equipment and therefore had no comment about sound insulation.

Jason Middleton has confirmed to me that any comments he has made to you are for those matters within his remit i.e. licence conditions and not the nuisance resulting from music noise arising from within your premises, which as you are aware is being dealt with by Matthew Ridings and myself, in Environmental Health. In this respect whilst a slight reduction in noise has been noted by complainants, since you most recent works, this has not solved the nuisance and we continue to receive complaints on a regular basis about this issue.

I would therefore remind you that an acoustic assessment is still required, which I have drawn to your attention on several occasions.

I look forward to you confirming when this assessment is to take place.

Yours sincerely,
Phil Livesey
Temporary Environmental Health Officer
Tel 01200 414466

Subject: FW: The Aviary, Noise issues

From: Phil Livesey <Phil.Livesey@ribblevalley.gov.uk>

Sent: 05 July 2022 16:10

To

Cc: Matthew Riding <Matthew.Riding@ribblevalley.gov.uk>

Subject: The Aviary, Noise issues

Dear Chelsea,

With reference to our telephone conversation this morning, as agreed please find details of the complaints we have received from residents over the last 2 months:

Date complained about	Description of complaint
Saturday 7/5/22	Loud music , particularly bass audible until late evening
Saturday 14/5/22	Loud music , particularly bass audible until late evening
Saturday 21/5/22	Loud music
Saturday 18/6./22	Several complaints about the Bottomless Brunch event concerning loud music/ live music. Residents state that loud music problems have occurred since this event first started.
Friday 24/6/22	Several complaints about loud music audible inside houses
Saturday 25/6/22	Several complaints about loud music audible inside houses, it was the loudest since the most recent insulation work was carried out
Friday 1/7/22	Several complaints about loud music into the early hours of Saturday
Saturday 2/7/22	Several complaints about loud thudding music until after midnight

I trust this information is helpful?

Yours sincerely,

Phil Livesey

Temporary Environmental Health Officer

Tel 01200 414466

From: Phil Livesey
Sent: 17 August 2022 16:38
To:
Cc: Matthew Riding
Subject: The Aviary, Whalley

Dear Chelsea,

Good afternoon, I believe in our telephone conversation last week, you assured me you would email me with a date for the acoustic assessment, at the Aviary. I was disappointed not to receive such a notification from you and expect to receive one without delay.

Unfortunately we received several complaints over the weekend about loud music, particularly bass, from the afternoon Bottomless Brunch and Saturday evening/early Sunday Morning . Whilst the assessment and subsequent sound attenuation recommendations are carried out, it is crucial you give attention to reducing the nuisance being caused to neighbours by the noise from the Aviary.

I look forward to receiving confirmation of when the assessment will be carried out.

Yours sincerely,
Phil Livesey
Environmental Health Officer
Tel 01200 414466

Subject: FW: Aviary, Acoustic Assessment

From: Phil Livesey
Sent: Wednesday, August 24, 2022 3:51 PM
To: Matthew Riding <Matthew.Riding@ribblevalley.gov.uk>
Subject: Aviary, Acoustic Assessment

Dear Matt,

Chelsea has just phoned me in response to my email last week, she hadn't responded earlier due to being on leave. Their business bank account has been hacked today and cleared of all funds, this has delayed ordering the assessment. The good news is that the transfer was stopped before being deposited with the fraudsters and the bank says their funds will be returned, she then expects to pay for the assessment this week with a view to it being carried out during the third week of September. She will let me know once this has been finalised.

Just thought I'd provide you with this information to keep you updated.

Yours sincerely,
Phil Livesey
Environmental Health Officer
Tel 01200 414466

Subject: FW: Sound Report

> -----Original Message-----

> From

> Sent: 27 September 2022 15:17

> To: Phil Livesey <Phil.Livesey@ribblevalley.gov.uk>

> Subject: Sound Report

>

>

> Hi Phil,

>

> Hope you are well. To confirm as I mentioned on the phone, the sound report is confirmed and going ahead second week of October, after 2 weeks they will then remove the equipment and prepare the report which he said may take a couple of weeks at least. As soon as we have any further information I shall be in touch, if anything changes in the meantime I'll let you know but we are booked in and I have confirmed it today.

>

> Many Thanks

>

> Chelsea

>

>

>

Subject: FW: Sound Report

-----Original Message-----

From: [REDACTED]
Sent: Friday, September 30, 2022 7:58 PM
To: Phil Livesey <Phil.Livesey@ribblevalley.gov.uk>
Cc: Andrew Dent <Andrew.Dent@ribblevalley.gov.uk>
Subject: Re: Sound Report

▲ External Email

This email originated from outside Ribble Valley Borough Council. Do NOT click links or open attachments unless you recognize the sender and are sure the content within this email is safe.

Good Evening Andrew,

Thank you for your email Phil.

Just to give you some background we have tried working closely with your department to reach a solution and the cost of this noise assessment report (£4000) is extremely detrimental to a small struggling local business especially in the current climate. Can we arrange a meeting once we have the report findings to discuss how to move forwards and what support you can offer?

As agreed in order to be compliant with your requests we have arranged the assessment as stated. Due to the ongoing campaign against our establishment from the two local residents, I do not feel comfortable sharing the exact date at this time. I will of course update you on the results as soon as we receive them in line with the timeline stipulated in the last email.

Many Thanks

Chelsea

A021

RIBBLE VALLEY BOROUGH COUNCIL

please ask for: Mr Andrew Dent
direct line: 01200 414466
e-mail: andrew.dent@ribblevalley.gov.uk
ref: 45243
date: 13th April 2023

Council Offices
Church Walk
CLITHEROE
Lancashire BB7 2RA

Switchboard: 01200 425111
Fax: 01200 414488
www.ribblevalley.gov.uk

Dear Miss Chard

**MUSIC NOISE FROM THE AVIARY, WHALLEY
LICENCING ACT 2003 – PUBLIC NUISANCE
ENVIRONMENTAL PROTECTION ACT 1990 – SECTION 80**

As you are aware, over the last 18 months, several nuisance complaints have been made to the Council by residents of Queen Street, Accrington Road and Woodfield View, Whalley, relating to noise from music at The Aviary, Whalley.

Night-time monitoring undertaken by the Council on the 10th December 2022 identified that the noise level within the bedroom of 2 Queen Street, Whalley (which is the nearest residential property to your venue) reached 43dBA when songs were being played; this exceeds the World Health Organisation guideline level within a bedroom of 30dBA. The bass noise was also prominent within the bedroom/house.

On the evening of the 27th March 2023, the Council undertook a series of noise readings from inside the bedroom of : Queen Street, Whalley, and from the backstreet of Queen Street, Whalley, with music being played a different levels within The Aviary.

It has been concluded, that if the music noise level inside The Aviary, measured from the centre of the dancefloor, is kept below 86dBA with the bass level on the mixer at its lowest setting, a nuisance shouldn't exist within bedrooms of nearby residential premises.

With the mixer levels set to the above, the highest average sound level (LAeq) measured on the backstreet without interference from traffic was 41dB. The loudest bass level in the frequency bands 63Hz and 125 Hz was measured at 30dB respectively (LAm_{ax}).

To protect nearby residents from noise nuisance, the Council requires you to adhere to the following condition:

The music noise level from The Aviary must not exceed 42dB (LAeq 1 minute) at the monitoring position shown in appendix 1 between the hours of 21:00 – 07:00. The bass level shall not exceed 30dB in the 63Hz Octave Band and 30dB in the 125Hz Octave Band (LAm_{ax}).

The Council will seek to add this condition to your premise licence through a minor variation, with mutual consent. Failing this, the Council will have no alternative but to call the premise licence in for review or to serve a statutory nuisance notice under section 80 of the Environmental Protection Act 1990.

As discussed, if you opt to have live acts/bands at your premises, where the sounds cannot be regulated by your mixing desk, the sound level will be much more difficult to control and you run the risk of breaching the condition and causing a noise nuisance. Great caution should be exercised if you choose to pursue this.

Hopefully, the agreed measures will protect neighbouring residents against night-time noise whilst allowing you to operate accordingly.

Further monitoring will be undertaken by the Council to ensure the noise limit is being met.

If you have any questions or queries about the content of this letter, please do not hesitate to contact me.

Your sincerely



Mr Andrew Dent CEnvH MCIEH AMIOA
Head of Environmental Health

Appendix 1:

Monitoring Location:

Microphone position denoted by red dot. Microphone 1.5m from the floor, 2.9m from the wall of The Aviary, 2.4m from the rear wall of 2 Queen Street.



A022



RIBBLE VALLEY BOROUGH COUNCIL

please ask for: Mr Andrew Dent
direct line: 01200 414464
e-mail: environmental.health@ribblevalley.gov.uk
my ref: 45243
date: 31.07.23

Council Offices
Church Walk
CLITHEROE
Lancashire BB7 2RA

Switchboard: 01200 425111
www.ribblevalley.gov.uk

The Company Secretary
Triangles Leisure Ltd
Unit 8
Cunningham Court
Blackburn
Lancashire
BB1 2QX

Dear Sir/Madam,

Section 80 – Environmental Protection Act 1990
Statutory Nuisance – Music Noise Emanating From The Aviary, Queen Street, Whalley.

Please find enclosed an abatement notice in respect of a statutory nuisance.

If you have any questions or queries about the content of the notice, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'A. Dent', written over a horizontal line.

Mr Andrew Dent CEnvH MCIEH AMIOA
Head of Environmental Health



Ribble Valley Borough Council
Council Offices
Church Walk
Clitheroe
Lancashire
BB7 2RA

Notice Reference: 45243

Notice

Environmental Protection Act 1990, Section 80(1)(a)

Abatement Notice in Respect of Statutory Nuisance

Recipient

Name: Triangles Leisure Ltd

Address: Unit 8, Cunningham Court, Blackburn, Lancashire, BB1 2QX.

Statutory Nuisance

Take notice that, under the provisions of the above-mentioned legislation, Ribble Valley Borough Council 'the council', is satisfied of the existence of a statutory nuisance under Section 79(1)(g) of the act at:

9TA, within the area of the council, arising from music noise, emanating from the premises The Aviary, Queen Street, Whalley, BB7 9TA.

Abatement

As the persons responsible for the said nuisance and the occupiers of the premises, the council requires you to **immediately abate** the same and also prohibit the recurrence of the same and for that purpose requires you to:

Ensure the music noise level emanating from The Aviary, Queen Street, Whalley, BB7 9TA, between the hours of 21:30 – 09:00, does not at any point exceed

- 42dBA (Leq, 1 minute)
- 56 dBZ (Lmax) at 63Hz
- 46 dBZ (Lmax) at 125Hz

measured from the position shown in appendix 1, which is attached to this notice.

Suspension

This is a notice to which paragraph (2) of regulation 3 of the Statutory Nuisance (Appeals) Regulations 1995 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.

Penalties

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 an unlimited fine. The council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance. The council also has powers to seize any equipment that gives rise to the said nuisance.

Appeal

You may appeal against the notice to a Magistrates' Court within 21 days beginning with the date of service of the notice. See the notes for information on appeals.

Officer

Signature: 

Name: Mr Andrew Dent MCIEH CEnvH AMIOA

Title: Head of Environmental Health

Date: 31.07.23

Contact address: Ribble Valley Borough Council, Council Offices, Church Walk, Clitheroe, Lancashire, BB7 2RA

Email: environmental.health@ribblevalley.gov.uk

Telephone: 01200 414464

Advice

If you do not understand the contents of this notice or would like to know more about it please contact the local authority. If you would like to receive independent advice about the contents of this notice, your rights and obligations then please contact The Citizens Advice Bureau, Housing Aid Centre, law centre or solicitor. Please be aware that you may qualify for Legal Aid or otherwise free independent advice from a solicitor or legal advisor for up to half an hour.

Notes

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, 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), (fa) 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,

(iv) is a nuisance falling within section 79(1)(fb) of the 1990 Act and –

(aa) the artificial light is emitted from industrial, trade or business premises, or

(bb) the artificial light (not being light to which sub-paragraph (aa) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility (within the meaning given by section 80(8A) of the 1990 Act),

that the best practical 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) or (ga) of the 1990 Act (noise emitted from premises), 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') (control of noise on construction sites and from certain premises), or

(ii) any consent given under Section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or

(iii) any determination made under Section 67 of the 1974 Act (noise control of new buildings);

(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 notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the Noise and Statutory Nuisance Act 1993 (loudspeakers in 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, or

(ii) a person who is also owner of the premises, or

(iii) a person who is also an occupier of the premises, or

(iv) a person who is also the person responsible for the vehicle, machinery or equipment,

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, or in connection with, any copy of the 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 the case of any appeal to which these regulations apply 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 the 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 an 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 Notice

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 the 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 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 it 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.

Appendix 1.

Measurement position denoted with red dot.



From: Andrew Dent
Sent: 25 October 2024 15:52
To:
Cc: Steve Maggs; Dundon, Stephen
Subject: Previous Noise Readings and Sound Level Meters
Attachments: NoiseMeters; Cirrus SLM...msg; FW: Sound Level Meter Enquiry - Ribble Valley BC Castle Group Ltd

Good afternoon Chelsea,

Further to the meeting on the 16th October 2022, as promised, please find attached the sound level readings obtained by the Council from the measurement position referenced in condition 21 on your premises licence. These readings were obtained post service of the abatement notice.

As discussed, the levels were well in exceedance of the noise limit at the time of monitoring. The results are shown below:

Table 1. Sound Levels of Three 1 Minute Readings Taken from The Monitoring Position Outside the Aviary Taken Between 23:10 – 23:15 on the 24 June 2023

Time	LAeq (1 minute) dB	LZmax (63Hz, 1 minute)	LZmax (125Hz, 1 minute)
23:10:58 – 23:11:58	50	69	61
23:12:08 – 23:13:10	51	67	60
23:14:02 – 23:15:05	51	67	60
Noise Limit	42	56	46

Table 2. Sound Levels of Five 1 Minute Readings from The Monitoring Position Outside the Aviary Taken Between 23:28 – 23:35 on the 27 October 2023

Time	LAeq (1 minute) dB	LZmax (63Hz, 1 minute)	LZmax (125Hz, 1 minute)
23:28 – 23:29	50	73	56
23:30 – 23:31	52	74	65
23:31 – 23:32	53	74	65
23:32 – 23:33	51	74	66
23:34 – 23:35	49	71	61
Noise Limit	42	56	46

Table 3 - 1 Minute Reading from The Monitoring Position Outside the Aviary Taken Between 00:29 – 00:30 on the 21 July 2024

Time	L _{Aeq} (1 minute) dB	L _{Zmax} (63Hz, 1 minute)	L _{Zmax} (125Hz, 1 minute)
00:29 – 00:30	55	76	66
Noise Limit	42	56	46

I have also attached details of sound level meters that you may choose to use to measure noise from outside your premises. The phone app you are currently using will not provide an accurate reading.

If you have any questions or queries, please do not hesitate to contact me.

Kind regards,

Andrew Dent BSc(Hons) CEnvH MCIEH MIOA | Head of Environmental Health
 Ribble Valley Borough Council, Council Offices, Church Walk, Clitheroe, Lancashire BB7 2RA
T: 01200 414466 | **M:** 07921473674 | **E:** andrew.dent@ribblevalley.gov.uk | **W:** www.ribblevalley.gov.uk



Ribble Valley
Borough Council

www.ribblevalley.gov.uk

 @RibbleValleyBC

From: Mike Bullen - NoiseMeters <
Sent: 25 October 2024 14:15
To: Andrew Dent
Subject: NoiseMeters

▲ External Email

This email originated from outside Ribble Valley Borough Council. Do NOT click links or open attachments unless you recognize the sender and are sure the content within this email is safe.

Hi Andrew,

Thank you for your telephone call.

The following meter would give them 1 minute averages, the LZmax and allow then store the measurement results:
<https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.noisemeters.co.uk%2fproduct%2fcr%2foptimus%2fred%2fcr160b%2f&c=E,1,Q4u6Anls7TnwkkYHqC-baoq7oh64s1-WJDQNDP1DOc79UTv6zSckBRp4a8WUAWeAoE2mQd7qjZWaRvjcQK42nKxDSmNa4K347dfwbX0J&typo=1>

It also has A, C and Z weightings (measured simultaneously) for all parameters.

If you require any further information or advice please contact me and I will be pleased to assist.

Best regards,

Mike

Mike Bullen
NoiseMeters Ltd

NOISE MEASUREMENT EQUIPMENT

Tel:

E:

W:

https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.noisemeters.com&c=E,1,G3R9vmEmXBxRnMog5SsWcqo-jMtmgmwXK6O1kCqq3RkOyKnRGHzBzZGg7MuFrCaxccDLVgsqZI9HJ5xjANCCUbupiAke9_xKx_7_Hi-VKSQ5H0-pZLnee8cFw,,&typo=1

Subject:

FW: Sound Level Meter Enquiry - Ribble Valley BC

Hello Andrew,

Thank you for your email and call earlier.

The CK162B sound level meter kit. This is Class 2 with LAeq and LZMax, and this can be set to measure for a fixed period of 1 minute and the results are stored internally. If they measure for a longer period the data can be post-processed to give 1 minute data. Cost is £1,779.00 (excluding VAT and carriage).

CK162B Datasheet: <https://cirrusresearch.com/wp-content/uploads/2023/03/Optimus-Red-Datasheet-English.pdf>

Let me know if you need any further information at this stage.

Many thanks,
Craig

Subject:

FW: Sound Level Meter Enquiry - Ribble Valley BC Castle Group Ltd

Hi Andrew.

Thank you for your enquiry today, I'm sending you information on the Sonik- 5 Data logging noise measurement system that gives you the parameters that is required LZmax and LAeq(1 min)).

<https://www.castleshop.co.uk/occupational-noise-measurement-system-nk122.html>

Please contact me if you need more information, we look forward from hearing from you.

Kind regards

Vince Allen

Area Southern Sales Manager

castlegroup.co.uk

Salter Road, Scarborough, YO11 3UZ, United Kingdom



AD24

Subject: FW: Request for Sound Recordings and Clarification on Sound Level Meter Options

From:

Sent: 28 October 2024 13:43

To: Andrew Dent <Andrew.Dent@ribblevalley.gov.uk>

Cc: Steve Maggs <Steve.Maggs@ribblevalley.gov.uk>; Dundon, Stepher

Subject: Request for Sound Recordings and Clarification on Sound Level Meter Options

 **External Email**

This email originated from outside Ribble Valley Borough Council. Do **NOT** click links or open attachments unless you recognize the sender and are sure the content within this email is safe.

Good afternoon, Andrew,

I hope you're well. As per our previous correspondence, could you please provide the sound recordings from the dates and times specified in your earlier email?

Additionally, regarding the sound level meters you've suggested, we had agreed during our last meeting on a budget of up to £500 for suitable equipment. However, the options you sent are significantly above this limit, and unfortunately, we are unable to allocate additional funds.

Given that the council has equipment that could help us maintain accurate levels, would it be possible to borrow this equipment to ensure we can take precise readings? This would be invaluable for us to remain compliant and maintain accurate monitoring.

Thank you for considering this request, and I look forward to your response.

Many Thanks,

Chelsea

Subject: FW: Request for Sound Recordings and Clarification on Sound Level Meter Options

From: Andrew Dent
Sent: 29 October 2024 16:39
To:
Cc: Steve Maggs <Steve.Maggs@ribblevalley.gov.uk>; Dundon, Stephen
Subject: RE: Request for Sound Recordings and Clarification on Sound Level Meter Options

Good afternoon Chelsea,

I'm well thank you; I trust you are too.

Regretfully, the audio from the readings has to be opened via the specific noise software we use, so cannot be sent via email. I'll forward you a video recording taken on the 21 July 2024 between 00:29 – 00:30 which illustrates the noise reading data and music noise. However, I'm currently having issues trying to send the video as an attachment as the file size is too large for the council I.T system to handle. I'll post it via pen drive if all else fails.

With regards to the sound level meter, I strongly advise that you purchase/rent a sound level meter that is capable of accurately taking sound measurements and can measure the relevant sound parameters. Not doing this risks you not complying with the premises licence condition which could result in enforcement action being taken and your premises licence being revoked.

Unfortunately, the Council is not able to lend our noise equipment out. This is because the equipment is tied up with several ongoing investigations.

If you have any questions or queries, please do not hesitate to contact me.

Kind regards,

Andrew Dent BSc(Hons) CEnvH MCIQH MIOA | Head of Environmental Health
Ribble Valley Borough Council, Council Offices, Church Walk, Clitheroe, Lancashire BB7 2RA
T: 01200 311400 | **M:** 07931473677 | **E:** andrew.dent@ribblevalley.gov.uk | **W:** www.ribblevalley.gov.uk



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A027

Subject: FW: The Aviary - Premises Licence Condition Breach - Friday 22nd November 2024

From: Andrew Dent
Sent: 28 November 2024 10:54
To:
Cc: Steve Maggs <Steve.Maggs@ribblevalley.gov.uk>; Dundon, Stephen
Subject: The Aviary - Premises Licence Condition Breach - Friday 22nd November 2024

Dear Chelsea,

I can confirm that officers from the Council undertook noise monitoring on Friday 22nd November 2024 from the location specified in the Aviary premises licence and found the noise limit stipulated in the premises licence (and formerly conditioned in the statutory nuisance notice) in clear breach. As you are aware, this condition was imposed to protect residents against nuisance.

The condition I allude to is referenced below:

Condition 21: The Premises Licence Holder shall ensure that the music noise level emanating from the premises, between the hours of 21:30 - 09:00, does not at any point exceed:

- 42 dBA (Leq, 1 minute)
- 56 dBZ (Lmax) at 63Hz
- 46 dBZ (Lmax) at 125HZ

measured from a point 2.9m from the side wall of the premises, and at the midpoint of the rear alleyway to Queen Street and Woodfield View.

The bass frequency on Friday 22nd November 2024 was identified to be of particular concern at 63Hz and significantly exceeded the set limit. A reading taken over a five-minute period is shown below:

Friday 22nd November 2024 - Bass Level Readings at 63Hz (LZmax) Taken from The Monitoring Position Outside the Aviary Over a 5-minute Period:

Time (1 Minute)	Parameter - LMax (63Hz) dBZ
23:23 – 23:24	73
23:24 – 23:25	74
23:25 – 23:26	74
23:26 – 23:27	76
23:27 – 23:28	77
Noise Limit	56

Reviewing the noise readings from Friday 22nd November 2024 and comparing these with historical readings taken during the abatement notice appeal period, the sound level at 63Hz is actually shown to be increasing in volume. I have attached the email previously sent to you showing the historical readings for reference (see below).

As you are aware, the Council's statutory nuisance investigation identified that the bass component of music played within the Aviary was intrusive and disruptive to occupants in nearby residential properties.

When we worked together to engineer a solution to the noise problem back in April 2023, it was identified that when the music inside the Aviary (measured from the centre of the dancefloor) was played at levels shown in the table below, no nuisance was caused to neighbours and the external noise limit was met. I recall the bass levels were on a low setting on the mixer when this reading was taken.

Noise Reading Taken from the Centre of the Dancefloor of the Aviary When the Music Noise Level Inside the Bedroom of the Nearest Sensitive Receptor Was Determined to Be Acceptable.

Scenario	63Hz (LZMax)	125 Hz (LZmax)	LAeq (1 minute)
Music Noise level Inside the Aviary deemed to be acceptable so as not to cause a nuisance inside the Nearest Sensitive Receptor	76	87	86

During the statutory nuisance investigation, I also advised that in my professional opinion, the fabric of the building is inadequate to prevent noise breakout where music is played at a high volume, especially at low frequencies. I acknowledge that you have undertaken some works to improve the sound insulation properties of the building, however, these works still appear to be ineffective.

The Council (Environmental Health and Licensing) continue to receive complaints from residents about music noise emanating from the Aviary causing a nuisance and it is clear the controls put in place to mitigate nuisance are not being adhered to. Forthwith, it is imperative the music noise is controlled to an acceptable level so as not to cause a nuisance and that the premises licence conditions are adhered to. Should the Council identify further breaches of the premises licence, we will be duty bound to call the licence in for review.

Please do not hesitate to contact me should you wish to discuss this matter further.

Kind regards,

Andrew Dent BSc(Hons) CEnvH MCIEH MIOA | Head of Environmental Health

Ribble Valley Borough Council, Council Offices, Church Walk, Clitheroe, Lancashire BB7 2RA

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A028

Subject: FW: The Aviary - Premises Licence Condition Breach - Friday 22nd November 2024

From
Sent: 02 December 2024 20:00

Steve Maggs

Subject: Re: The Aviary - Premises Licence Condition Breach - Friday 22nd November 2024

 **External Email**

This email originated from outside Ribble Valley Borough Council. Do **NOT** click links or open attachments unless you recognize the sender and are sure the content within this email is safe.

Hi Andrew,

I hope this message finds you well.

We are currently exploring additional options to address the sound challenges. Over the weekend before last, we trialled relocating the speakers, but unfortunately, the adjustments did not deliver the expected results during the sound check. As a next step, we are sourcing new speakers and considering a revised layout.

Additionally, we would be glad to collaborate with you during your checks, especially if a negative reading arises, to address the issue promptly and reduce sound levels as needed.

We have also invested in a noise meter and are conducting regular recordings to monitor and manage sound levels effectively.

Many Thanks

Chelsea

From: Andrew Dent
Sent: 23 December 2025 13:56
To:
Subject: FW: The Aviary - Premises Licence Condition Breach - Saturday 13th December 2025

Good afternoon Chelsea,

I can confirm that officers from the Council undertook noise monitoring on Saturday 13th December 2025 from the location specified in the Aviary premises licence and found the noise limit stipulated in the premises licence (and formerly conditioned in the statutory nuisance notice) in clear breach. As you are aware, this condition was imposed to protect residents against nuisance.

Over the last 2-3 months, the Council has received several complaints about the music noise (especially the bass) being intrusive and a nuisance, the levels observed on the 13.12.25 appear to substantiate these claims.

The condition of your premises licence is shown below:

Condition 21: The Premises Licence Holder shall ensure that the music noise level emanating from the premises, between the hours of 21:30 - 09:00, does not at any point exceed:

- 42 dBA (Leq, 1 minute)
- 56 dBZ (Lmax) at 63Hz
- 46 dBZ (Lmax) at 125HZ

measured from a point 2.9m from the side wall of the premises, and at the midpoint of the rear alleyway to Queen Street and Woodfield View.

The readings that were taken over a ten-minute period on the 13.12.25 are shown below:

Saturday 13th December 2025 – Noise Reading from The Monitoring Position Outside the Aviary Over a 10-minute Period:

Time	LAeq (1 min)	L90 (1 min)	63Hz (LMax, 1 Min)	125Hz (LMax. 1 Min)
23:43 – 23:44	58.4	49.8	70	61.8
23:44 – 23:45	63.3	50.2	69.3	62.1
23:45 – 23:46	52.9	50.1	79.5	73
23:46 – 23:47	53	50.8	77.4	70.2
23:47 – 23:48 (fire door opened – patrons came out)	63.2	50.9	78.6	78.2
23:48 – 23:49 (fire door opened – patrons came out)	59.3	50.4	77.0	61.6
23:49 – 23:50	51.7	50.3	77.1	61.3
23:50 – 23:51	51.7	50.2	77.8	61.8
23:51 – 23:52	51.6	49.6	76.8	62.1

23:52 – 23:53	51.8	50.4	77.1	61.9
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To reiterate again, it is absolutely imperative the music noise is controlled to an acceptable level so as not to cause a nuisance to neighbouring residents and that the premises licence conditions are strictly adhered to. Should the Council identify further breaches of the premises licence, we will be duty bound to take action, this may include calling the licence in for review or prosecuting for breach of licence conditions.

Thank you for your co-operation on this matter.

Please do not hesitate to contact me should you wish to discuss this matter further.

Kind regards,

Andrew Dent BSc(Hons) CEnvH MCIEH MIOA | Head of Environmental Health
Ribble Valley Borough Council, Council Offices, Church Walk, Clitheroe, Lancashire BB7 2RA
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A034

Subject: FW: The Aviary - Premises Licence Review

From: Andrew Dent
Sent: 11 March 2026 11:59
To:
Cc: Licensing <Licensing@ribblevalley.gov.uk>
Subject: The Aviary - Premises Licence Review

Good morning Chelsea,

Regretfully, further to my email dated 23.12.25 (see below), a high volume of complaints have continued to be received by the Council relating to music noise emanating from the Aviary and causing a nuisance to local households in the late evening/early hours, at weekends.

Officers from the department carried out further monitoring on two separate Saturday evenings in January 2026 and found that the noise limit conditioned in the Aviary premises licence (condition 21) was being clearly breached on both occasions.

Given the continuation of complaints and the identification of clear breaches of condition 21, which, as you are aware was imposed to protect residents against nuisance; Environmental Health's position is that we have no option but to call the Aviary Licence in for review, with the purpose of imposing further restrictions to prevent public nuisance.

The Council's Licensing Department will be in touch with you about the review process in due course.

If you have any questions or queries about the content of this email, please do not hesitate to contact me.

Kind regards,

Andrew Dent BSc(Hons) CEnvH MCIEH MIOA | Head of Environmental Health
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