Sustainable Acoustics

The Glee Club, Leeds

Noise Impact Risk Assessment

Report No. 24-0026-0 R01

♦ PROTECT ♦ ENHANCE ♦ CONNECT

The Glee Club, Leeds

Noise Impact Risk Assessment

Report No.:	24-0026-0 R01
Date:	19 March 2024

Prepared by:

Peter [redacted]
BSc(Hons) MSc FIOA MIOL

[redacted]

Checked by:

Chris [redacted]
MEng(Hons) CEng MIOA

[redacted]

Sustainable Acoustics

Managing Director: Peter [redacted] BSc(Hons) MSc CEng FIOA FRSA MIOL

Registered Offices: 9 St George's Yard, Castle Street, Farnham, Surrey, GU9 7LW
T [redacted] E [redacted] W www.sustainableacoustics.co.uk
Registered in England • Company No 08149321 • VAT Registration No 180557205

CONTENTS

1 SUMMARY 5
2 INTRODUCTION 5
2.1 Context and history 6
2.2 Planning history & restrictions 6
2.3 Site Layout 8
3 PLANNING, LICENCING, NOISE POLICY & NUISANCE 9
3.1 Licensing Policy 10
3.2 Planning Policy 10
3.3 Noise Policy 10
3.4 Nuisance 11
3.5 Balance 11
4 SURVEY METHODOLOGY & RESULTS 13
4.1 Music Transmission 13
4.2 Environmental Noise Climate 14
4.3 Instrumentation 15
5 OPERATIONAL NOISE LEVELS 16
6 DISCUSSION 16
6.1 EH Proposed Conditions on noise 16
7 MITIGATION 18
8 PROPOSED CONDITIONS 19
9 RECOMMENDATIONS 21
10 UNCERTAINTY 21
11 CONCLUSION 22

APPENDIX 1 POLICY 23
APPENDIX 2 NOISE & OPERATIONAL MANAGEMENT PLAN 27
APPENDIX 3 ACOUSTIC NOISE LIMITER SPECIFICATION 32

FIGURES

Figure 1: Site location with monitor positions shown..... 8
Figure 2: Proposed site layout plan (footprint of residential block 125 in yellow) and unit within red line 9
Figure 3: Speaker set up (not shown in test position)..... 13
Figure 4: Measurement position 1 and 2 respectively..... 14
Figure 5: Time History of sound level recorded at position MP1..... 15
Figure 6: Time History of sound level recorded at position MP2..... 15

1 SUMMARY

The Glee Club has instructed Sustainable Acoustics to assess the suitability of Unit 2, 123 Albion Street, Leeds for their operation for comedy, cabaret and live music, which have existing licence hours until 03:30 hours whilst in practice live music would aim to finish by 11pm. This is on ground and basement level of the building (stage on level 1), where previously there was a Job Centre, and before that was a Jongleurs (described on its website as the oldest and most reputable comedy brand in the UK).

Account has been taken of the representations of residents of 125 Albion Street, which is structurally connected to the building, and also of the planning and licensing concerns of Environmental Health officers of Leeds City Council (LCC), and the conditions proposed.

An acoustic feasibility test was completed in the presence of LCC Environmental Health (LCC EH) and with typical commercial levels of sound in the venue it was demonstrated that that noise was not audible in the commercial space directly above the unit, or outside residential flats on the fourth floor (which are the closest). This demonstrates that with appropriate best practice it is feasible to use this unit for the intended Glee Club operation, with technical and management controls which can be captured as part of a scheme of acoustic controls to protect residents. Wording is proposed for a condition which would proactively satisfy both planning and licensing regime expectations.

The external noise climate has also been objectively quantified to inform plant noise limits to protect residential properties, although only modest new ventilation plant is proposed in additional to re-use of the legacy plant which already exists. Wording is proposed for a condition to address this, and minimise any additional impact on residents.

The draft wording for four conditions have been proposed, which set out how residential amenity would be protected, and how proactively prevention of public nuisance will be achieved.

Based on the technical evidence available, there are no grounds to refuse permission for the use, or for a premises licence permitting amplified music, providing the suggested recommendations are implemented. This will protect noise sensitive uses to a good degree.

2 INTRODUCTION

The Glee Club has instructed Sustainable Acoustics Limited (SAL) to assist with the planning and licensing considerations for occupying Unit 2, 123 Albion Street, Leeds, LS2 8ER. The unit was most recently a Job Centre but previously was a Jongleurs (a similar type of entertainment use).

The basement of the unit would be for entrance, toilets and ancillary use, with the ground floor (from Albion Street) being the main floor for the proposed operation that would include a bar and entertainment area.

Sustainable Acoustics visited the site on the 27th February 2023 to undertake an acoustic feasibility exercise to test the acoustic separation of the unit from residential units, to conduct background noise survey and meet with Leeds City Council planning and licensing Environmental Health officers at the premises. The visit was used to determine the likely impact at the nearest noise sensitive properties and what measures might work to satisfy concerns in both planning and licensing regimes.

During the first visit approximate commercial levels of sound were generated in the unit close to areas considered to be the weakest parts for sound transmission through the structure, and it demonstrated that sound was barely perceivable without putting an ear to the column in the commercial offices above. Further checks outside flat 5 on floor 4 demonstrated no sound from the unit as audible at that location, even with the speaker in contact with the column.

This report details the instrumentation, methodology and results of the survey, and presents suggested alternate draft condition wording to that suggested by the licensing consultation response of predicted noise level at the nearest noise sensitive properties.

2.1 Context and history

The proposed site for the Glee Club was a Jongleurs, another entertainment venue, for a number of years previously, which offered a similar type of entertainment (comedy and musical entertainment) but to a later hour of typically 2am, but with licence hours up to 03:30. The Glee Club operational model is similar, but with an earlier finish time generally expected.

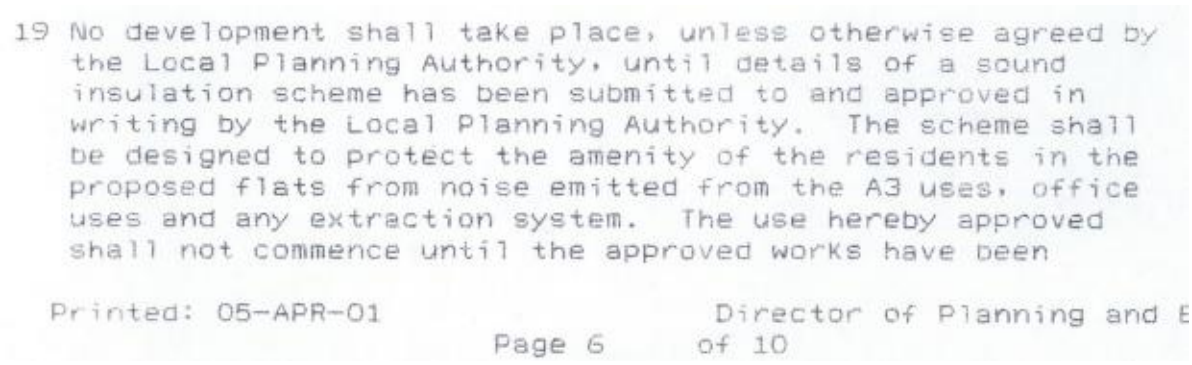
Jongleurs did prompt complaints as a result of music intrusion, according to the recollections of planning Environmental Health officer Simon (surname not noted), which were found to be due to speakers mounted on the structure. This was the basis for caution in considering the currently suitability of the unit for a resumption of a similar use.

When Jongleurs closed the unit it was then used as a Job Centre, so reverting to an office hours use.

The locality is the centre of Leeds, on a main street. The residents living in 125 Albion Street look out onto rooftop plant of the businesses operating from 123 Albion Street, which includes Unit 2 (although that plant is understood to be enclosed). The balconies overlook the city-scape. It is a relatively noisy environment full of noise sources, which are associated with a busy urban centre, including plant noise.

2.2 Planning history & restrictions

The permission in 2001 for application 20/67/02/FU (amended to 20/248/00/FU for A3 and D2 use can be found on the planning portal as shown below. It was finally approved 19th Mar 2008 and included noise conditions relating to plant (condition 16, 17) and from road noise (condition 18) and condition 19, which requires:


19 No development shall take place, unless otherwise agreed by the Local Planning Authority, until details of a sound insulation scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed to protect the amenity of the residents in the proposed flats from noise emitted from the A3 uses, office uses and any extraction system. The use hereby approved shall not commence until the approved works have been

Printed: 05-APR-01 Director of Planning and E

Page 6 of 10

…completed".

In condition 23, the hours of delivery from Great George Street are restricted to 10am to noon and 2pm to 4pm Monday to Saturday and no deliveries on Sundays.

https://publicaccess.leeds.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=ZZZTJSJBXE586

A change of use from a former bar (A4) to assembly and leisure (D2) was approved in May 2017 with no noise statement submitted, and no conditions attached relating to noise.

In August 2017 a change of use of Nightclub to Adventure Golf Course was approved with no conditions relating to noise.

In 2020 application 20/00616/FU was approved on 23rd March 2020. This was for a change of use of ground floor retail/ leisure (A4/D2 to office (B1), financial services (A2), restaurant and café (A3), drinking establishment (A4), non- residential institution (D1) and assembly and leisure (D2), with no conditions relating to noise.

The historic review shows that condition 19 of the application approved in 2008, to implement a scheme of sound insulation to protect residential amenity from the A3 restaurant and Café use, should have been discharged before any development took place. Assuming this was done the resistance to sound has been included within the structure for that use. There was no requirements to enhance the sound insulation in 2020 when D2 use was reintroduced, at a time when any complaints from the Jongleurs use would have been known.

2.3 Site Layout

The proposed site is the basement and ground floor of Unit 2 of 123 Albion Street, with a residential tower block extending from floor 4 upwards, as can be seen in Figure 1.

The nearest noise sensitive receptors are those on floor 4, on the façade which overlooks the south plant roof area. The residential block is highlighted in yellow. Figure 2 presents the proposed floor plans.

Figure 1: Site location with monitor positions shown

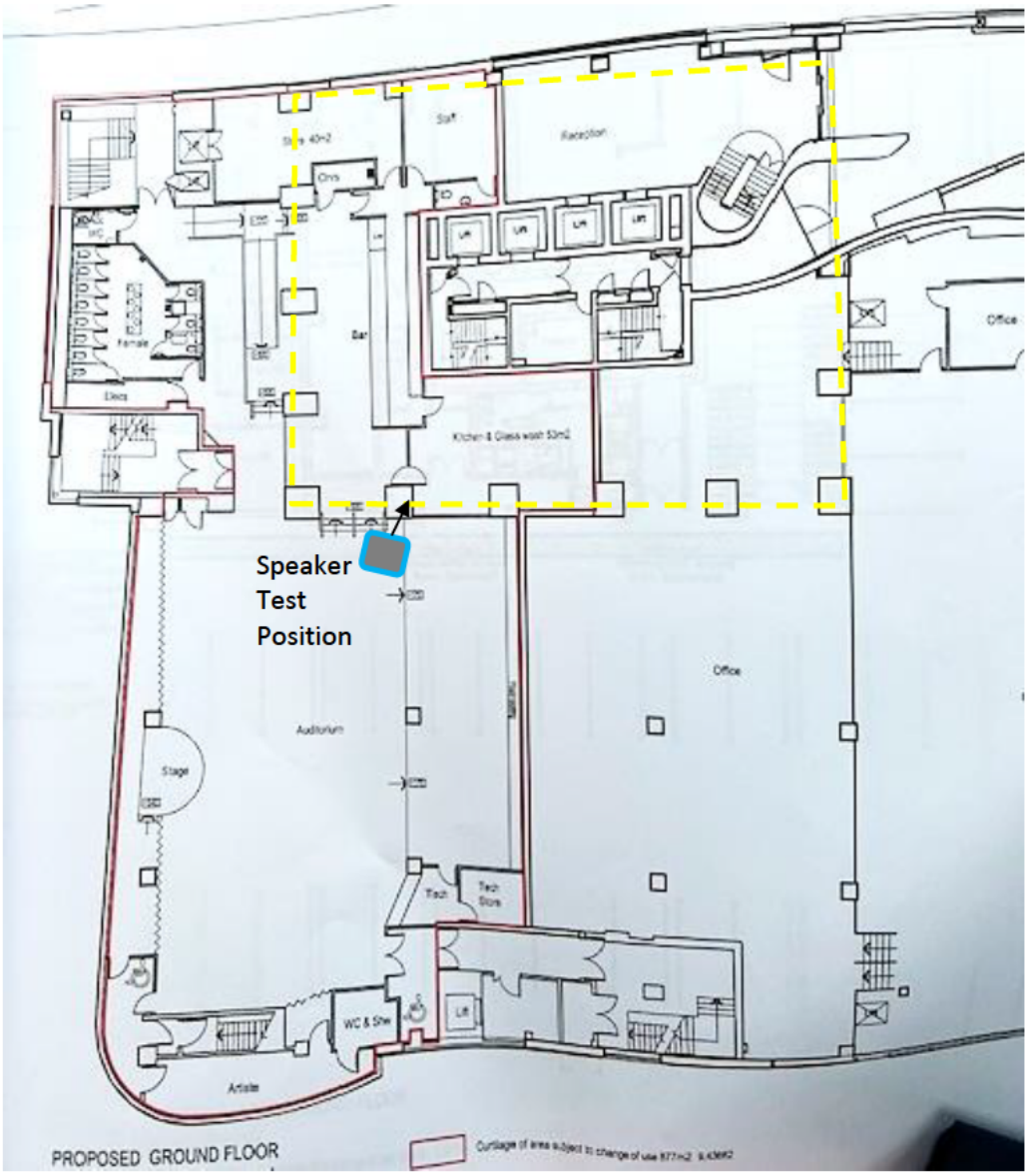


Figure 2: Proposed site layout plan (footprint of residential block 125 in yellow) and unit within red line

Background and ambient noise levels at the site are subjectively urban with road and plant noise present and dominating the noise climate experienced by residents. Albion Street is a busy road in the centre of Leeds city.

3 PLANNING, LICENCING, NOISE POLICY & NUISANCE

In planning terms, the impact being considered is on the quality of life of the residents, but the context means that this must be considered against this historical soundscape in this city centre location and for an established a lawful use.

In licensing terms this would revive a licence for a similar operation, where the noise impact should be controlled proactively, such that a public nuisance is not caused. It is understood that there was a complaint history caused by music transmission resulting from speakers being structurally connected. It is therefore necessary to investigate this potential in some detail.

In regulatory terms a preventative approach is appropriate to make sure sufficient controls are in place.

The national policy for each regime is considered in turn, including the overarching one for noise, with a view offered in terms of achieving the balance required for successful control of noise.

3.1 Licensing Policy

The Licensing Act 2003 sets out 4 licensing objectives, of which one is Public Nuisance. The licensing regime is a permissive regime and the aim and expectation of a licenced premises as a result is to proactively prevent public nuisance, rather than be prescriptively controlled to achieve that outcome.

More guidance on noise in licensing can be found in Appendix 1 of this document.

The premises licence application is reference: PREM/05269/001.

A hearing before the sub-committee is scheduled for the 26th March 2024.

3.2 Planning Policy

The National Planning Policy Framework (NPPF), updated Dec 2023, deals with noise specifically in paragraph 191, where it states that planning policies and decisions should:

- *"mitigate and reduce to a minimum potential adverse impact from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life[69]"*

Footnote "69" signposts the Noise Policy Statement for England (2010) (or NPSE), which must also be considered. More detail can be found about relevant guidance on noise in planning in Appendix 1 of this document.

Local Policy CC1 of Leeds Core Strategy (amended 2019) is relevant, particularly paragraph g:

> g) All other town centre uses will be supported within the City Centre boundary provided the use does not negatively impact on the amenity of neighbouring uses and that the proposal is in accordance with all other Core Strategy policies,

3.3 Noise Policy

The overarching policy for noise (in the NPSE) sets a vision to *"Promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development"*. To do this noise should be minimised to avoid a significant adverse impact, and where possible improved to contribute to the improvement of health and quality of life.

There are no set objective numbers provided to achieve this, but there are thresholds defined based on epidemiological concepts of low, observable and significant adverse effect levels to which it is common practice to define appropriate objective levels for each threshold (see Criteria).

3.4 Nuisance

Nuisance is an English common law concept where in the case of noise it caused harm to the use of property. Where a use of the land is considered to be outside the ordinary use for which it is intended, and the impact causes material interferences of the average person of that ordinary use without give and take or reciprocity then a nuisance may exist. It is important that the impact must be substantial or significant and not simply annoying.

A Statutory nuisance is where noise may be prejudicial to health or a nuisance, and under 79(1)(g) of the Environmental Protection Act 1990. Where noise is considered to constitute a statutory nuisance, this requires abatement under S80 of the act, where an abatement notice is served by a local authority satisfied that one exists. This could be applied to as little as one individual.

For a nuisance to be a public nuisance, then the nuisance should be so broad in terms of the impact on use of property that it affects a cross section of his majesties subjects. An example of this could be a number of flats affected in 125 Albion Street to a degree where a nuisance could be proven.

3.5 Balance

A review by the House of Lords of the Licensing Act and more recently of Noise and Health of Humans encouraged that planning and licensing should take a more joined up approach, which has been broadly accepted by Government as a sensible approach. This means that ,where it is possible to achieve the balance required to protect amenity and quality of life from a type of land use, that the licence can be used as a refinement mechanism, albeit only to avoid widespread nuisance. This leaves a gap where noise may be sufficiently impactful to cause an annoyance or private nuisance, which can be addressed by either regulatory or common law action or by calling a premises to Review the licence.

It is reasonable to consider that in order to achieve the balance needed, that avoiding conditions where a nuisance could be determined would satisfy the expectations of the NPPF in paragraph 191 a) to avoid a significant adverse effect level. This conceptually aligns in effect if not in strict interpretation, as a nuisance requires a number of other factors to also be considered, such as locality, time of day and duration for instance.

It is also common sense that the duty on Environmental Health means that where proper balance is achieved that the protection of quality of life and amenity should result in a nuisance being avoided. This may not mean that there is an absence of complaints, but where complaints are not justified, against the bar of nuisance, then a lower level of impact that is moderated in line with the Noise Policy through softer controls, such as management plans, may be appropriate.

It is this balance that is sought between each of the regimes of planning, licensing and regulatory.

3.6 Other Relevant Guidance

LCC Planning Guidance

LCC also provides planning guidance on noise and vibration, which is specific for plant noise and entertainment noise in sections 4 and 5 respectively. The document can be found at : Noise and vibration planning guidance (leeds.gov.uk)
The stated purpose at section 1.0 of the document is to provide "*guidance to relevant environmental/acoustic professionals and planning officers within Leeds City Council (LCC) when deciding upon the applicable criteria to avoid a significant loss of amenity due to planning developments".* This is to promote the Development Plan Core Strategy and Best city ambitions as well as the NPPF and NPSE.

Section 4 states in relation to plant on commercial uses near to noise sensitive receptors " *Where such potential exists, a noise impact assessment should be carried out at the façade of noise sensitive premises to demonstrate that the following criteria will be met:*

The Rating Level is no higher than the existing background noise level (L90) when measured at noise sensitive premises, with the measurements and assessment or calculation made in accordance with BS4142:2014". As an alternative an absolute limit of NR20 in bedrooms is proposed overnight.

For entertainment noise the "*Premises must be designed so to ensure that music and associated noise is controlled. The following criteria should be used to demonstrate that virtual inaudibility will be achieved:*

Inaudibility as defined by the Institute of Acoustics' Good Practice Guide on the Control of Noise from Pubs and Clubs 2003:

- *Entertainment Noise Level, LAeq (1 minute) should not exceed the Representative Background Noise Level, LA90.*
- *Entertainment Noise Level, L10 (5 minutes) should not exceed"*

It clarifies at 5.4 "The use of Noise Rating (NR) curves"… "*is an alternative way of establishing acceptable levels in noise sensitive premises, as long as this will achieve the equivalent level of protection as provided by 5.2. it is expected that the following criteria will be demonstrated:*

- *NR 20 in bedrooms (23:00 to 07:00 hours); (Where low frequency noise is a particular concern then NR15 at 63 and 125Hz octaves should be achieved in bedrooms).*
- *NR 25 in all habitable rooms (07:00 to 23:00 hours).*

Noise rating curves should be measured and assessed against a 15 minute linear L_{eq} at the octave band centre frequencies 31.5 to 8 KHz".

Building for Tomorrow Today , Supplementary Guidance (adopted 2011)

Section 15 deals with Health and wellbeing and noise pollution falls within this at 15.2 to 15.5. In 15.6 it focuses on the need for sound insulation to be improved to reduce the likelihood of complaints. This

is the most relevant element to the scheme being proposed, and is central to protecting residents from the operational noise from within Unit 2 of 123 Albion Street from Glee, Leeds.

4 SURVEY METHODOLOGY & RESULTS

4.1 Music Transmission

An acoustic investigation was conducted on the 27th February in the presence of three Environmental Health Officers of LCC.

Pink noise was played at 95dB(A) from a cabinet loudspeaker placed on a tripod in free field within 2m of one of the columns that was connected to the residential block 125.

A second version of the test was conducted with the speaker leaded up and in contact with the column to create structure borne excitation.

Figure 3: Speaker set up (not shown in test position)

It was intended to complete full sound insulation measurements to residential flats, but when in the open plan offices directly above it was not possible to hear the sound transmission. It was possible to confirm the source was on by placing an ear in contact with the column, where it was just audible, but this illustrated that it would not be possible to measure the transmission of the sound or hear it when

standing back into the space. As the operator would operate out of standard hours this would not be likely to clash with the commercial use directly above, which enjoys good sound insulation.

This initial test demonstrates that noise transmission to the residential flats two further floors above was very unlikely. With the speaker in contact with the column there was a slight increase noticed in the office space above, but this was still not noticeable again in the office space, with services turned off to create better listening conditions.

This was later confirmed by listening test outside the door of flat number 4, on the closest part of the residential floor. No sound could be heard, despite the sound source being confirmed to be on and in contact with the column as a worst case.

The sound insulation test had to be abandoned due to the lack of transmission, which was witnessed by Environmental Health officers in the offices above. It was agreed verbally that an objective criteria would be a valid way to address concerns.

4.2 Environmental Noise Climate

The variation of sound over the night-time period was monitored at measurement position 1 and 2, as shown on Figure 1, and shown below in Figure 3. The results can be used to derive plant limits.

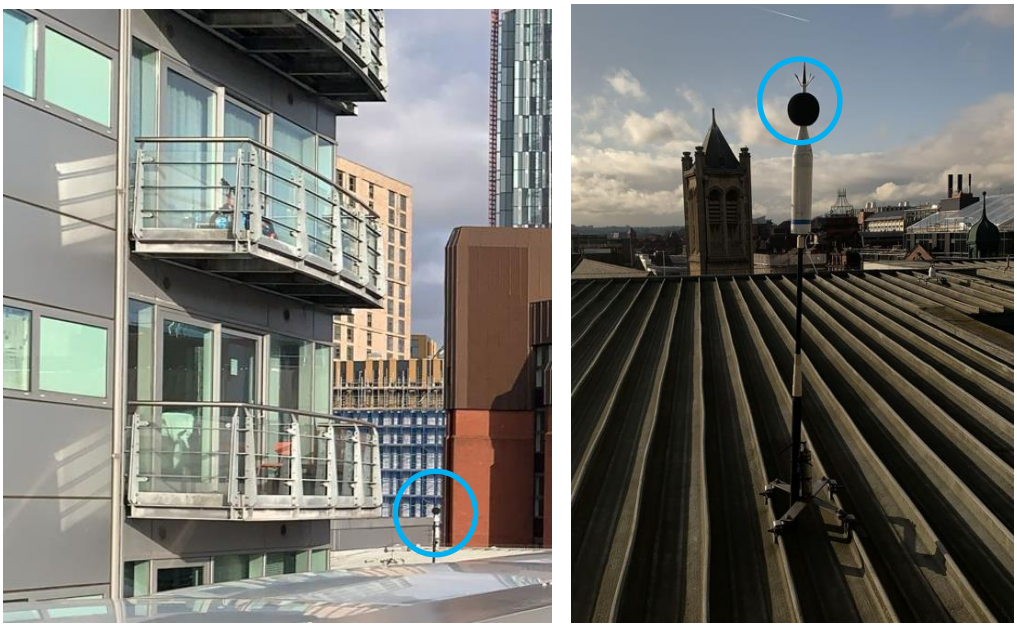


Figure 4: Measurement position 1 and 2 respectively.

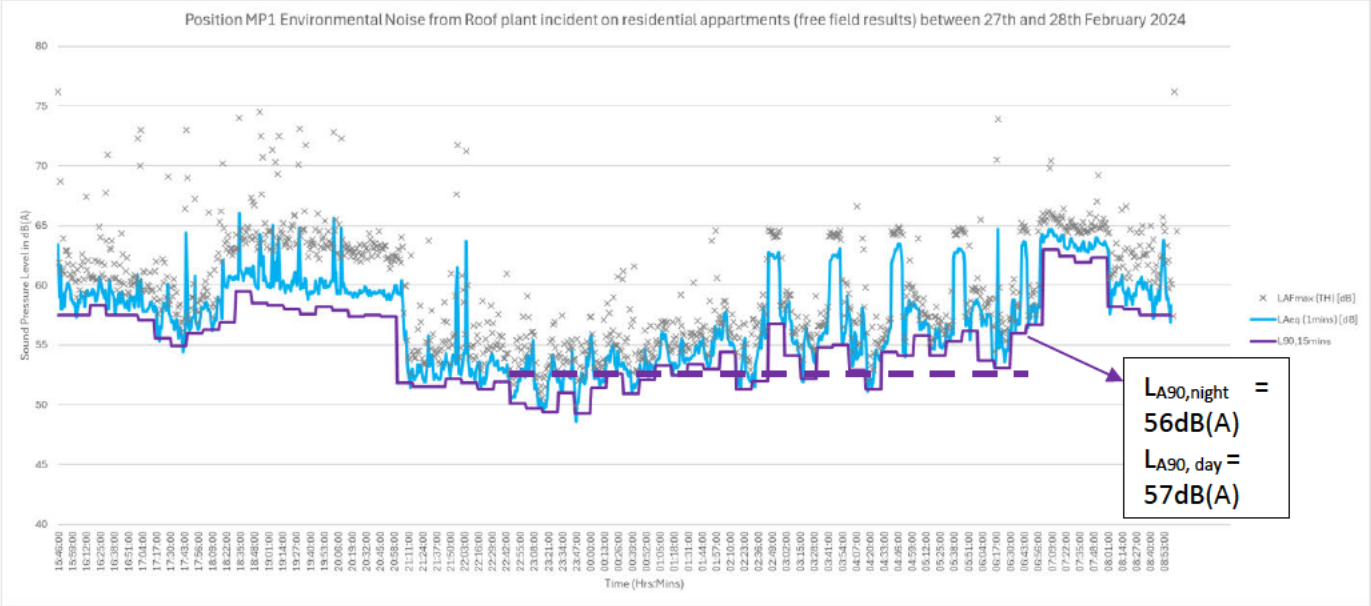


Figure 5: Time History of sound level recorded at position MP1

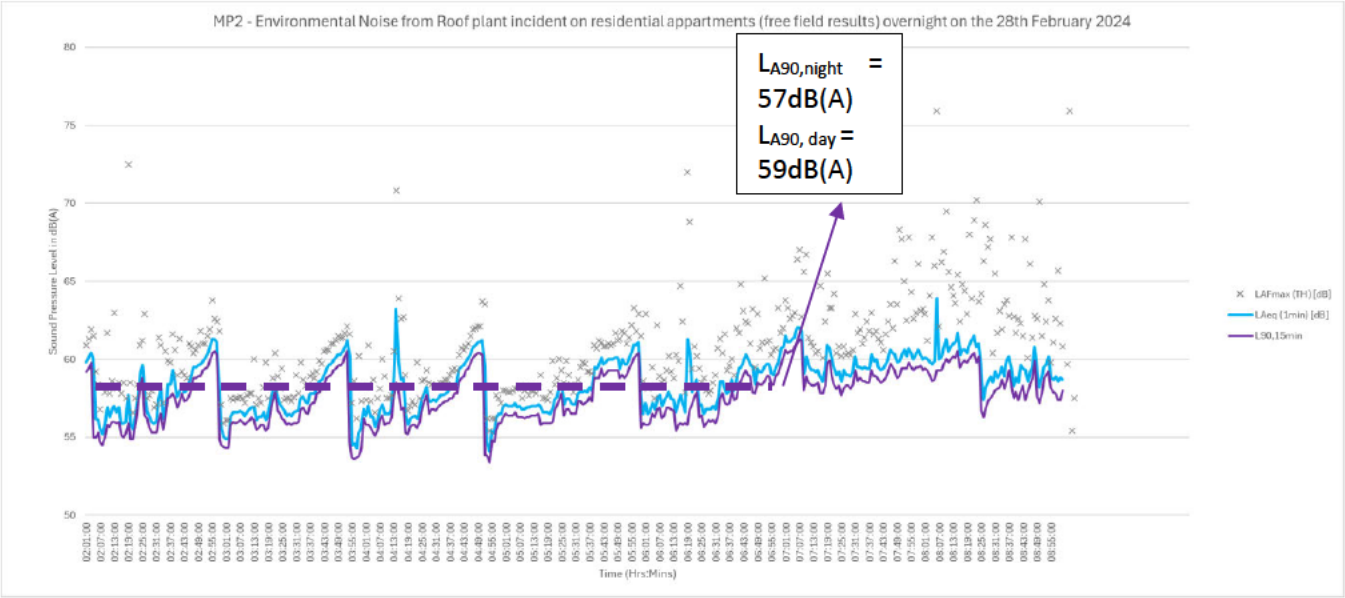


Figure 6: Time History of sound level recorded at position MP2

4.3 Instrumentation

For the external survey, a Svantek 307 Class 1 sound level meter (serial number 78601), and a 307 Class 1 sound level meter (serial number 78657) were used to collect the rooftop ambient sound level data. The sound level meter, microphone and preamplifier for both monitors was last calibrated in a calibration laboratory on Feb 2023 and calibration and conformance certificates are available upon request.

A Yamaha CBR15 cabinet loudspeaker and Alto D1 amplifier was used to generate pink noise to 93 - 95dB(A) within the unit, placed near to one of the key columns that are shared with the residential building.

5 OPERATIONAL NOISE LEVELS

Assumed

Typical events held include comedy, which is mainly amplified speech, whereas the highest impact events would be live amplified music.

It is assumed that an approximated average of 95dB(A), as an average over the audience area, is likely to be a typical commercial level for such an event, based on our experience, and to ensure there is sufficient capability for the operation. This is what has been assumed for the test generated in close proximity to a residential column.

It is understood that Acoustic drum kits are not likely to be used, beyond 23:00 hours (see Appendix 2).

6 DISCUSSION

None of the planning permissions place an expectation on the use to improve the sound insulation beyond that required for café and restaurant use in 2001 (approved in 2008). This establishes the ordinary use of the building as having a reasonably appropriate sound insulation for the proposed use, with some indication from the complaints history that a degree of care is needed to stay within the sound insulation capabilities of the structure.

It was apparent from the meeting on site, that regulatory and planning concerns of EHO's were regarding the previous complaints history related to Jongleurs. Probing the cause revealed that it was music transmission via structurally mounted speakers that they were referring specifically too (i.e. structure-borne noise transmission). Tests showed that even with a structural connection of the speaker to the closest residential column, that the test noise was not noticeable in the commercial floor above, and also it was confirmed not to be noticeable on floor 4 outside flat 4.

This was sufficient to demonstrate good acoustic structural resistance to airborne and structural sound transfer, such that the proposed use was viable with appropriate controls in place to achieve the expectations of planning, licensing and regulatory regimes.

It was agreed that this could be done through an objective target in residential habitable rooms, for which a scheme of mitigation could be submitted for comment and approval by LCC EH. This was agreed between EHO's to be a reasonable way forward, and is captured in the proposed condition wording in section 8, and Appendix 2.

6.1 EH Proposed Conditions on noise

The proposed conditions put forward by EH Regulatory in relation to the licensing objection, for which a sub-committee hearing is being held in March, contains requirements for inaudibility. Subject to a

change to objectively define what this means I would suggest that the other conditions could be incorporated within the Noise Management Plan, and so would be agreed.

My comments on the proposed conditions and suggestions are in blue, to achieve the planning and licensing balance required:

1. "*Licensable activities shall be conducted and the facilities for licensed activities shall be designed and operated so as to prevent the transmission of audible noise or perceptible vibration through the fabric of the building or structure to adjoining properties.*
   See comment below.

2. *Noise from a licensable activity at the premises shall not be audible at the nearest noise sensitive premises at K2 apartments, 125 Albion Street".*
   This approach has been shown through case law (Hope & Glory v WCC) that being not audible is 'vague and imprecise', and therefore requires objective definition in my opinion. The condition PR/1 is proposed as an objective equivalent of this condition, supported by the latest ProPG guidance for gyms where music is being played. Conditions PR1 is in Section 7, which could be added as a footnote or could replace entirely condition 1 and 2. It would then be measurable, enforceable and appropriate.

3. *Before the development is brought into use, a Patron Dispersal and Smoking Policy shall be submitted to and approved in writing by the Local Authority. The approved scheme shall be implemented and retained thereafter. In the event of complaints, the policy shall be reviewed, and any changes shall be approved by the Local Authority.*

   A wider Noise Management Plan is proposed, which can include these elements, which would address this. It is otherwise acceptable, except for the outside area, which does not exist.

4. *Before licensable activities commence, a Noise Mitigation Scheme shall be submitted to and approved in writing by the Local Authority. The approved scheme shall be implemented before the development is brought into use and retained thereafter.*
   This is agreed as appropriate and is aligned with the slightly amended version in PR2, but with an extended requirement to commissioning to demonstrate the scheme has been effective. See Section 8.

5. *Bottles will not be placed in any external receptacle between 11 pm and 7 am the following day to minimise noise disturbance to neighbouring properties.*
   This is agreed as appropriate, and precise and achieves the balance required as a time restricted noise source. It could be included with PR3 in the Noise management plan, so is not necessary to include explicitly, but equally could be let as is.

6. *Noise from plant or machinery shall not be audible at the nearest noise sensitive premises during the operation of the plant or machinery. Plant and machinery shall be regularly serviced and maintained to meet this level.*

   This wording is in appropriate as it applies to existing that is being re-used and so there is no additional noise impact. What new plant is being introduced could increase the noise impact , so alternate wording is proposed in PR4, Section 7 to make the impact no worse than it is. It is agreed that would then meet the appropriate test and achieves the balance required for planning and licensing.

7. *The PLH/DPS will ensure patrons use external areas in a manner which does not cause disturbance to nearby residents and business in the vicinity. Patrons will not use such areas after 11 pm.*
   This wording is unnecessary as it would be covered by the noise management plan, and in any event there is no outside area.

8. *The activities of persons using the external areas shall be monitored after 11 pm and they shall be reminded to have regard to the needs of local residents and to refrain from shouting and anti social behaviour etc when necessary.*

   This wording is unnecessary as it contradicts Condition 7 and would in any event be covered by the noise management plan. As there are no outside areas within the demise is can be disregarded. It could be accepted with amends to clarify and reflect the noise of people outside the venue on the streets as they disperse.

9. *The PLH/DPS will adopt a "cooling down" period where music volume is reduced towards the closing time of the premises "*

   This wording is unnecessary as it would be covered by the noise management plan, and can be made a specific requirement to include (see PR3 as proposed in Section 8). If it can be justified as a reasonable concern by LCC EH it could be accepted as proposed however.

The existing licence times go until 03:30 for amplified music, but in reality the proposed profile of use is likely to end earlier than this, with live music to 11pm typically. In reality because of the nature of the entertainment on offer it will be largely amplified voice. Appropriate soft management controls have been be included within the Noise Management Plan (See **Appendix 2**), which should be sufficient to satisfy the licensing objective of being proactive and preventative, in what is a light tough regime.

7 MITIGATION

Good Acoustic Design Scheme

The existing structure offers good protection from noise transmission to the residential, based on the recent viability acoustic tests.

Nevertheless, applying a scheme of mitigation which applies good acoustic design principles should include:

- Retaining the existing linings to the columns or enhancing them, and not penetrated or bridged during fit-out works. These offer protection to the existing structure. Where they are damaged they should be made good or improved acoustically by lagging with mineral fibre, and fixing two layers of 15mm thick Soundbloc onto independent support or with resilient channels.

- All speaker mounts should be resilient, providing at least 90% isolation to the structure at 50Hz and above, and should be replaced with the same specification when no longer effective. A supplier example is:

https://isoacoustics.com/new-product-isoacoustics-introduces-the-v120-isolation-mount/

- Compression acoustic limiting device should be fitted to the sound system, which enables for a master output level at each octave band frequency to be set and not exceeded as a 5 minute average. This device shall be set-up and commissioned by a suitably qualified acoustician in conjunction with LCC EH, to achieve the proposed condition PR1. It will be then locked with a tamperproof seal / password and the systems operated through this system at all times. A specification is set out in **Appendix 3.**

- Electronic drums only to be permitted beyond 11pm, which run through the acoustically limited system. Prior to 11pm drums would be used as part of the live music sets.

Noise Management Plan

An outline noise management plan is included in **Appendix 2**, which represents best practice in the industry, and should be shaped by Glee Club to modify to suit operational practices, and then offered to LCC EH for comment and approval, in accordance with the proposed condition PR3.

8 PROPOSED CONDITIONS

Licensing consultation by Environmental Health has proposed 9 conditions.

These are largely agreed, but with suggested amends to make them enforceable and appropriate.

Not all of these are considered appropriate, given the intended permissive nature of the licensing regime, which only seeks to impose conditions where they are needed to restrict the impact to not causing public nuisance. The Live Music Act allows deregulation of such condition before 11pm in any event, unless this is disapplied.

There are no powers to require protection of amenity through the licensing regime, which is a planning expectation which has already been addressed by permitting the use.

Following my investigation I would suggest the following 4 conditions would be appropriate to either modify those nine proposed by LCC EH and in so doing would meet the balance expected by both the planning and licensing, and in my view these are proportionate and reasonable, as well as meeting the planning condition tests and that of the national noise policy. If adopted to modify the LCC EHO conditions these will also prevent nuisance, and avoid a burden on regulatory services, and could all included prior to first use requirements and to be maintained to provide sufficient reassurances.

PR1) ***Amplified music noise from operations shall not exceed NR20 (or G15 as defined by the ProPG Gym guidance 2023) in any residential habitable space when measured as an L_{eq} over any 5 minute average during the approved hours of operation. Reason: To avoid residents from experiencing significant adverse impact.***

PR2) ***The sound systems will be designed to minimise transmission through the structure, using acoustic good design practices including mounting speakers on resilient mounts. A scheme of mitigation will be submitted for approval by LCC, and a commissioning exercise carried out by suitably qualified acoustician to demonstrate that condition PR1 is satisfied. Reason: To avoid residents from experiencing significant adverse impact.***

PR3) A noise and operational management plan will be submitted for comment and approval by LCC, which includes measures to manage and minimise other sources of noise associated with the operation (including, deliveries times, bottling out times, dispersal policy, people noise from external areas and addressing antisocial behaviour, cooling off period for music and a complaint procedure for residents). Once approved the plan shall implemented during operation. Reason: To avoid residents from experiencing significant adverse impact.

PR4) the combined noise level from any new and retained existing plant shall not exceed that currently experienced by the nearest residents at 125 Albion Street from plant associated with the operation of 123 Albion Street by more than 1 dB. A noise impact assessment shall be completed to define the existing plant noise level to define this requirement, and to demonstrate compliance with it through calculation for the proposed plant. Reason : To avoid residents from experiencing significant adverse impact

Comments from LCC EH

The following comments have been received from Gary [redacted] of Environmental Health in liaison over the draft wording on the 14th March 2024, with my comments to those beneath in blue which have been shared with him. At the time of writing this liaison is ongoing:

- PR1 relating to NR curves would be impossible for local authority officers and operators to monitor or demonstrate, the people who witness noise do not have training in operating or even carry noise equipment, or understand technical jargon. The condition needs to be simple to understand and from experience the most reliable and strongest evidence is visiting, making notes of observations and relate the disturbance experienced to a source (noise data will not signify where the noise originates).

  PR 1 only draws fro LCC's own planning guidance on noise at section 5.4 of NR20 in bedrooms: Noise and vibration planning guidance (leeds.gov.uk). PR2 is intended to provide the mechanism for a one-off set up of the system by a specialist acoustician, which can be witnessed and or reviewed and signed off by LCC EH. This removes the technical concern you have, and the variable judgement concern I have.

- PR2 – Too vague
  I have reworded slightly, but it aims to share what is proposed in terms of mitigation and then set-up the system (which will include an acoustic limiter) to achieve the target. This is the "set-up" part of the process, which means the controls would be self enforcing.

- PR3 – I'd be happy to agree to this condition, alongside other conditions within the QO
  Noted, and agreed.

- PR4 – again, too technical. Not suitable for enforcement purposes.

  This wording in not unusual for plant noise conditions, and is something that would be demonstrated by report by a suitably qualified acoustician. As it stands most of the plant is existing and the impact would not alter, so this is really about demonstrating the impact of

the new proposed plant would not make it measurably worse. This is also consistent with Section 4.2 of your own planning guidance on noise and vibration: Noise and vibration planning guidance (leeds.gov.uk).

9 RECOMMENDATIONS

We recommend the licence is permitted with the modified LCC EH conditions to include the comments and proposed wording of PR1, PR2, PR3, PR4. The rest of the LCC EH conditions are captured by PR3, which could simplify the expectations to meet the appropriate test in licensing, and or the reasonable or necessary test in planning. It also applies LCC's own planning guidance on Noise and Vibration, as discussed in the above section.

The proposed conditions:

- PR1 sets an objective noise target in residential flats, which provided a definition to "not be audible" as contained in the LCC EH proposed condition 2. Including this amendment would make the condition sufficiently technically precise.

- PR2 requires a scheme of acoustic mitigation to implement best practice, which could be added to provide assurances to LCC EH to check engineering good acoustic design steps are being implemented;

- PR3 requires a 'management tool' which includes key areas where noise generation would run the risk of causing an impact, allowing the operator to demonstrate that noise impact is being controlled proactively, which is aligned with the licensing objectives and incorporates much of what the other LCC EH conditions are asking for;

- PR4 require a reasonable and nationally consistent approach to plant noise control, in an environment where external amenity areas of balconies are dominated by existing plant noise from other units on the roof and traffic noise (confirmed on site by LCC EH to be a reasonable approach.

Provided the above conditions are attached or incorporated in the rationalising of the LCC EH conditions it is considered in my expert opinion that the impact from noise would be suitably controlled, and that the licence should be permitted on technically robust evidential grounds. It would also align with local policy and guidance provided by LCC in planning in particular on noise and vibration in relation to plant noise and entertainment noise.

10 UNCERTAINTY

All objective data has a level of uncertainty, resulting from the measurement tolerance, natural variation in the environment etc. It is therefore important to consider the uncertainty of the assessment, so that an understanding can be gained as to how certain the reader can be of the conclusions.

The tests carried out were of a feasibility nature, and demonstrate that for operational levels of music noticeable transmission is not expected to occur to the closest residential flats. For bass and sub-bass some precaution should be given to these results, as the speaker was not generating energy at below

63Hz. This can be addressed in the set-up of an acoustic limiting device and in the scheme of mitigaiton and noise management plan to control times for live music.

11 CONCLUSION

An assessment of the proposed Glee Club in Unit 2 of 123 Albion Street has been completed by Sustainable Acoustics, in the presents of three Leeds City Council Environmental Health officers who claimed to representing officers providing comments to planning and licensing matters.

This presented an opportunity to explore a joined-up approach, which has been proposed, following acoustic testing which demonstrated that sound transmission through the structure was very limited. This providing good prospects for noise control from the unit without extensive mitigation, and no sound was audible in the commercial unit at level 2 above of 123 Albion Street or outside the nearest flat on level 4 of 125 Albion Street.

A set of alternative condition wordings have been proposed to either assist to simplify and reduce the number of conditions, to achieve the balance required by planning and licensing, whilst not placing an unreasonable burden on the operator. Where these are not preferred then if used to modify the LCC EH proposed condition wording as proposed this would be equally appropriate from a technical perspective, and be consistent with LCC's own planning advice on noise and vibration and also to enhance sound insulation to assist health and wellbeing in line with the Building for Tomorrow Today guidance.

The assessment demonstrates that technical evidence supports permitting the licence, with some limited conditions attached to control noise to the surrounding uses. This satisfies local policy CC1, LCC's own guidance on noise and vibration and so should be granted as a result.

The licensing objective is to proactively prevent public nuisance and this would be expected to be achieved and complaints would be unlikely and so be avoided. This satisfies local and national policy, offering good protection for existing residents and other commercial uses nearby.

APPENDIX 1
Policy

11.1 National Planning Policy Framework

Current planning policy is based on the National Planning Policy Framework (NPPF), revised in December 2023, which supports a presumption in favour of sustainable development, unless the adverse impacts of that development would outweigh the benefits when assessed against the policies in the Framework, taken as a whole.

The noise implications of development are recognised at paragraph 191, where it is stated that planning policies and decisions should:

- *"mitigate and reduce to a minimum potential adverse impact from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life[65]"*

- *"Identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason"*

11.2 National Planning Policy Guidance on Noise

The newly refreshed guidance says, *"Good acoustic design needs to be considered early in the planning process to ensure that the most appropriate and cost-effective solutions are identified from the outset".*

It also says noise can override other planning concerns, where justified, "*although it is important to look at noise in the context of the wider characteristics of a development proposal".*

It makes clear that "*As noise is a complex technical issue, it may be appropriate to seek experienced specialist assistance when applying this policy".*

It also says that as exposure "*crosses the 'lowest observed adverse effect' level boundary above which the noise starts to cause small changes in behaviour and attitude, for example, having to turn up the volume on the television or needing to speak more loudly to be heard. The noise therefore starts to have an adverse effect and consideration needs to be given to mitigating and minimising those effects (taking account of the economic and social benefits being derived from the activity causing the noise)".* This indicates that below the Lowest Observable Adverse Effect Level upper threshold (LOAEL) would be considered acceptable. The noise exposure hierarchy is set out in a table which suggest that at a LOAEL that is "present and intrusive" that the action should be to mitigate and reduce to a minimum.

Above this is considered to be an Observable Adverse Effect (OAE). It makes clear that when the effect becomes significant (SOAEL) that it should be avoided. This guidance is consistent with the policy within NPSE.

It also talks of a positive soundscape "where natural sounds" are more prominent than background noise from manmade sources. The guidance indicates that this can be considered to be tranquillity in terms of identifying areas that justify being protected or improved.

Further government advice on how planning can manage potential noise impacts in new development is given in PPG: Noise[i].

11.3 Noise Policy Statement for England

Paragraph 191 of the NPPF also refers to advice on adverse effects of noise given in the Noise Policy Statement for England[ii] (NPSE). This document sets out a policy vision to

> *"Promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development".*

To achieve this vision the Statement sets the following three aims:

> *"Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:*
>
> - *avoid significant adverse impacts on health and quality of life*
> - *mitigate and minimise adverse impacts on health and quality of life; and*
> - *where possible, contribute to the improvement of health and quality of life.*

In achieving these aims the document introduces significance criteria as follows:

SOAEL – Significant Observed Adverse Effect Level

This is the level above which significant adverse effects on health and quality of life occur. It is stated that "significant adverse effects on health and quality of life should be avoided while also taking into account the guiding principles of sustainable development".

LOAEL – Lowest Observed Adverse Effect Level

This is the level above which adverse effects on health and quality of life can be detected. It is stated that the second aim above lies somewhere between LOAEL and SOAEL and requires that: "all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development. This does not mean that such adverse effects cannot occur."

NOEL – No Observed Effect Level

This is the level below which no effect can be detected. In simple terms, below this level, there is no detectable effect on health and quality of life due to the noise. This can be related to the third aim above, which seeks: "where possible, positively to improve health and quality of life through the pro-active management of noise while also taking into account the guiding principles of sustainable development, recognising that there will be opportunities for such measures to be taken and that

[i] https://www.gov.uk/guidance/noise--2
[ii] Department for Environment, Food and Rural Affairs, *Noise Policy Statement for England,* London, 2010

they will deliver potential benefits to society. The protection of quiet places and quiet times as well as the enhancement of the acoustic environment will assist with delivering this aim."

The NPSE recognises that it is not possible to have a single objective noise-based measure that is mandatory and applicable to all sources of noise in all situations and provides no guidance as to how these criteria should be interpreted. It is clear, however, that there is no requirement to achieve noise levels where there are no observable adverse impacts but that reasonable and practicable steps to reduce adverse noise impacts should be taken in the context of sustainable development and ensure a balance between noise sensitive and the need for noise generating developments.

APPENDIX 2
Noise & Operational Management Plan

Entertainment : Glee Club, Leeds
Brief Noise Management Plan v1-SAL

Unit 2, 123 Albion Street,

Noise Management Plan

Sound generated by the operation of the licensed premises can take many forms, and is part of the vibrancy and experience created as part of the entertainment offering. Managing this both inside and outside the premises to ensure at all times the promotion of the licensing objectives, and to minimise disturbance of nearby residents in 125 Albion Street as far as practicable is the aim of this operational noise management plan, which applies to all sources of sound emitted.

We will train our staff to observe and enforce this Noise Management Plan and monitor the effectiveness of it and compliance with it.

We will encourage our customers to observe this Noise Management Plan and generally to respect this city center neighbourhood within which we trade, building on our reputation in other cities for zero complaints.

We will take the following specific steps in order to proactively promote the licensing objectives, and minimise the risk of justifiable complaints which could unreasonably harm residential amenity.

A: Music Controls

1. All amplified music played in the venue will be controlled in level and frequency to achieve to following levels, which have been quantified by a suitable qualified or trained person:

Position	L_{Aeq} in dB(A)	L_{A90} in dB(A)	L_{AMax} in dB(A)	Bass Frequencies $L_{eq\ 63Hz}$ in dB	Bass Frequencies $L_{eq\ 125Hz}$ in dB
Inside up to 23:00	TBA				
Outside up to 23:00	TBA			To be completed following commission tests	
Boundary to residential	TBA				

Table 1: Upper Existing Operational Music Levels in any 5 minute period to meet residential criteria

2. Where this would normally require external doors facing residents to be closed where they are kept open for ventilation conditions then the existing levels in Table 1 may need to be reduced so that the agreed criteria within residential is met.
3. No external audio equipment will be permitted to be used
4. All external suppliers of entertainment (ie. DJ's, entertainers) will be required to enter into a Service Level Agreement (SLA), which agrees to operate through the acoustically limited house system, and if they are found to not be will not be permitted to continue to supply services to the venue

5. Live music (including acoustic percussion) to end by 23:00hrs, except for exception events to number no more than 3 per calendar year, where residents in 125 Albion Street should be notified in advance and for how long it will continue.

B: Complaint Management

1. The premises will have a single point of contact for complaints, which is made available to residents that might be affected by noise from the premises (which may be a mobile number or an e-mail address) and they should be encouraged to call it should they have a complaint about music noise;
2. In the event of a complaint details should be recorded into a complaint log and every effort will be made to quickly check that the control measures are in place, and to reduce levels voluntarily until such time as the complaint has been fully investigated in line with this sound management plan;

Complaint Log

Name/ Position: .....

A complaint was received: ☐ (tick) ; Date : .....

Note : If a verbal or telephone complaint was received then complete the details of the complaint below and action taken with as much detail as possible

Details of complaints (include contact details if given, time, nature):

Investigation details and actions taken:

_____

_____

_____

_____

_____

_____

Reminders : Was the iNMP followed ? □ , Was it justified (J) or malicious (m) ? □

Could more be done to avoid in future?

_____

Entertainment : Glee Club, Leeds
Brief Noise Management Plan v1-SAL

Staff Service Level Agreement – Noise Management

I confirm that I am familiar with the requirements of the Noise Management Plan.

If I am found to not comply then I accept that I could be asked to cease providing services to the venue, pending an investigation, and may have payment withheld if I have been found to have willfully not complied with the interim Noise Management Plan.

Date : .....

Name: ....., Signature:
.....

Contact details (email and or mobile).....

I am aware that I must not operate the sound system beyond the limited sound output: ☐ (tick if yes)

I am familiar with the Interim Noise Management Requirements : ☐ (tick if yes)

APPENDIX 3
Acoustic Noise Limiter Specification

We do not recommend installing "Cut-off" limiters, which interrupt the power to equipment.

An alternative is a compression limiter, which is capable of restricting sound in each frequency band, and being set-up to ensure that these levels set a maximum levels in accordance with out recommended limits.

Digital Limiters (Typical price range [redacted])

A digital acoustic limiter works by compressing the amplifier signal against a threshold level set in software across the graphic equalizer, which is set using software and can not be tampered with. This allows of individual frequencies to be limited precisely in a repeatable and highly flexible and zoned manner. This is ideal for a permanent or semi-permanent installation where tight control is required without harsh interventions. There is no microphone though and so the levels must be set and checked according to measurements taken independently at the time of set up. There are a number of systems that can be added as a programmable EQ and compressor including:

- Soundweb
  http://bssaudio.com/en-US/product_families/soundweb-london
- Solus 4 or 8 plus the acr2e remote volume control
  http://www.symetrix.co/products
- XTA 426 Loudspeaker Management Controller.
  http://www.audiocore.co.uk/products-series4.html ; [redacted]

Wall controller & Digitally programmable EQ

Local suppliers of audio equipment that may be suitable include :

Direct Acoustics : https://www.directacousticsolutions.com/products-services/zone-array/
Email: [redacted]
Contact : Adam [redacted] (mention that we recommended you to them)
Tel [redacted]

Loud & Clear
https://loud-clear.co.uk/?gclid=Cj0KCQjwio6XBhCMARIsAC0u9aE_433HmDJXA2AId9V4eZfZ7z-skjPwiQ82pKzCiCqWERgzjpMOYj0aAnszEALw_wcB
[redacted]