

## COMPLAINTS POST APPROVAL OF MINOR VARIATIONS

### Complaint 13 June 2021

I am the owner/occupier of 20 St Denys Court, St Denys Road, YO1 9PU.

My premises, in particular my balcony, overlooks the outside area of the premise 59-63 Walmgate. The outside area is used by patrons of the licensed establishment Tabanco of which Ambiente Tapas Limited is the Premises Licence Holder.

Condition 25 of their Premises Licence requires that:

'Noise or vibration from the premises will be maintained at a level that will not be audible at the facade of any neighbouring noise sensitive premises.'

The purpose of this condition is to prevent a public nuisance, one of the 4 Licence Objectives.

I consider my premises to be a 'neighbouring noise sensitive premises' and, as such, noise from licensed premises must not be audible at the facade of my premises.

I attach 2 video files taken at different times during the afternoon of Saturday 12 June 2021. These clearly demonstrate that noise from the licensed premises could be heard at the facade of my premises. Noise levels such as these could be heard throughout the afternoon and early evening. I consider this a breach of the Condition 25 and a failure of the premises licence holder to promote the licensing objectives. I also that consider that the noise amounts to a public nuisance as defined by Section 7.11 City of York Council - Statement of Licensing Policy 2019-2024. As such, I wish to register a formal complaint.

Irrespective of Condition 25, I consider the level of noise to be both frequent and sufficient enough to demonstrate a public nuisance exists; the examples I have provided are indicative of the regular noise levels I am subjected to on a daily basis.

Please advise me what action the Council will now take, particularly with regards to Section 13 - Enforcement - City of York Council - Statement of Licensing Policy 2019-2024.

It should also be noted that throughout much of the afternoon there were in excess of 12 patrons in the outside area, a breach of planning controls (16/00012/FUL). It is for the Council to consider whether that, under such circumstances, the provision of alcohol at the premises is unlawful. (Section 8.5 - Planning - City of York Council - Statement of Licensing Policy 2019-2024)

Kind regards,

Ray Price  
20 St Denys Court  
St Denys Road  
York  
YO1 9PU

Response 22 June 2021

SRU22053

Good afternoon Mr Price

With regard to your recent complaint, which I can confirm has been logged.

As you are now aware the premises are now subject to a licensing review, with a hearing now scheduled to heard by the Licensing Committee.

That being the case the Licensing Dept. shall now await the outcome of that review.

Before considering any further action which may or may not be required

Regards

Kerrie Shields  
Licence Enforcement Officer,  
City of York Council  
email: [kerrie.Shields@york.gov.uk](mailto:kerrie.Shields@york.gov.uk)

## Complaint 26 June 2021

I am the owner/occupier of 20 St Denys Court, St Denys Road, YO1 9PU.

My premises, in particular my balcony, overlooks the outside area of the premise 59-63 Walmgate. The outside area is used by patrons of the licensed establishment Tabanco of which Ambiente Tapas Limited is the Premises Licence Holder.

Condition 25 of their Premises Licence requires that:

'Noise or vibration from the premises will be maintained at a level that will not be audible at the facade of any neighbouring noise sensitive premises.'

The purpose of this condition is to prevent a public nuisance, one of the 4 Licence Objectives.

I consider my premises to be a 'neighbouring noise sensitive premises' and, as such, noise from licensed premises must not be audible at the facade of my premises.

I attach 2 video files taken at 16:12 and 17:55 during the afternoon of Saturday 26 June 2021. These clearly demonstrate that noise from the licensed premises could be heard at the facade of my premises. Noise levels such as these could be heard throughout the afternoon and early evening. I consider this a breach of the Condition 25 and a failure of the premises licence holder to promote the licensing objectives. I also that consider that the noise amounts to a public nuisance as defined by Section 7.11 City of York Council - Statement of Licensing Policy 2019-2024. There appeared to be no attempts by staff to manage the noise generated by customers. As such, I wish to register a formal complaint.

Irrespective of Condition 25, I consider the level of noise to be both frequent and sufficient enough to demonstrate a public nuisance exists; the examples I have provided are indicative of the regular noise levels I am subjected to.

Please advise me what action the Council will now take, particularly with regards to Section 13 - Enforcement - City of York Council - Statement of Licensing Policy 2019-2024.

Kind regards,

Ray Price  
20 St Denys Court  
St Denys Road  
York  
YO1 9PU

Response 12 July 2021

Good morning Mr Price

Thank you for your email

With regard to Licensable Activities, as advised previously on similar matters, there are no apparent breaches of the licence taking place.

With regard to the usage of the rear yard , again I find that this is being conducted in terms with the licence conditions.

These matters have also been reviewed by the senior Licensing Officer whom I understand you have also communicated with previously, and, I believe, she is of similar opinion to mine.

In relation to the potential noise nuisance The EHO, Mr Gray was forwarded a copy of your complaint, I understand you are in regular communication with him.

Regards

Kerrie Shields  
Licence Enforcement Officer,  
City of York Council  
email: Kerrie.Shields@york.gov.uk