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From: **Zoe Sinclair** <zoe@ambiente-tapas.co.uk>

Date: Wed, 30 Jun 2021 at 12:34

Subject: 59-63 Walmgate, York - Complaint About Alleged Noise

To: <Kerrie.Shields@york.gov.uk>

Dear Mr Shields

We confirm receipt of your two letters dated 17th June addressed to the above premises and received on 19th June & addressed to our registered office & received on 24th June.

It is alleged that on Saturday 12th June 2021 that noise from our premises was audible in the complaint's property but no detail is given as to what time of day this occurred or if the alleged noise came from inside our premises or from the courtyard.

Dealing first with any noise from inside the premises. All ground floor windows are screwed shut and the door to the rear courtyard is generally kept shut apart for ingress & egress. On the few occasions that the door needs to be held in the open position when the courtyard is more busy or extra ventilation is needed the music in the rear of the restaurant is turned off. In any instance the volume of music in the premises is kept at a low level to facilitate conversation and in these times of covid security to prevent shouting.

If the noise complaint relates to that generated from the courtyard we would plead that at most any noise can only be held to be at annoyance levels even to the most sensitive of complainants and only ever at reasonable hours of the day. Previously it has been held by your Ian Gray in relation to a previous complaint about an alleged breach Condition 26 that:

"In terms of the reasonableness of such a condition, it could be said that any kind of noise made in the courtyard, no matter how reasonable or how low, would be likely to make sufficient noise to travel to a nearby facade. Neither the licencing enforcement officer or I feel that we could take enforcement action against the types of noises that you refer to taking place during the day (laughter, the clangining of plates, rattle of knives & forks, stomping about of serving staff & even the filling of ice buckets)."

The screenshot below shows the level of business throughout the day on 12th June. The level of noise in the courtyard was low throughout the day with one notable exception around 17:00 which is recorded in our incident book. There was a brief verbal altercation between two ladies on Table 41 as they walked past Table 43. The matter was taken indoors by the Manager and the ladies left the premises shortly afterwards.

In relation to this Condition 26 please can it be noted that to the best of our knowledge that no noise complaints have been made from residents above our premises whose properties are also immediately proximate to the courtyard.

We fully understand our obligations under the Licencing Act 2003 and maintain that it can not be construed that we are in breach of Condition 26 simply by allowing customers to eat & drink in the courtyard or from an isolated incident that was dealt with swiftly & effectively.

A reply to this email would be gratefully appreciated so that we can be satisfied that we are not falling short of our obligations by some innocent misinterpretation of legislation or the terms of our Premises Licence.

Kind regards

Zoe Sinclair
Ambiente Tapas Limited
Green Lane Trading Estate
Clifton Moor
York
YO30 5PY

Restaurants also at:

14 Goodramgate	York	YO1 7LQ	01904 689784
31 Fossgate	York	YO1 9TA	01904 638252
36-38 The Calls	Leeds	LS2 7EW	0113 246 1848
5 Humber Street	Hull	HU1 1TG	01482 426 126

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