

**From:** Mike Richardson <[REDACTED]>  
**Sent:** 04 November 2022 09:52  
**To:** Licensing <Licensing@havering.gov.uk>  
**Subject:** Array Licence Review

Hi Licensing

Please find attached my representation regarding the prevention of a public nuisance from Array Essex, Shepherds Hill, Romford, and the appropriate supporting documentation, marked MR1

I have also attached a couple of suggested conditions to this email (as well as those within my reps), which may be of benefit, but appreciate that these may also be raised by other responsible authorities who may make representations about the current licence. As such, I've included them in this email, rather than in my official representation, but if appropriate, they can be made available to Members.

**A complaints book or electronic record will be held on the premises to record details of any complaints regarding amplified music, or other issues raised by local residents. The information is to include, where disclosed, the complainants name, location, date and time and subsequent remedial action taken. This record must be kept for a minimum of 3 months and be made available at all times upon request for inspection by the Licensing Authority and the Metropolitan Police.**

*Reason: To ensure that the premises licence holder, DPS or other responsible party record and appropriately act on complaints regarding a public nuisance.*

**The designated premises supervisor (or representative) shall monitor activities in the car park/near vicinity to ensure that customers leave the premises and area quietly. If customers are unreasonable in their actions, the designated premises supervisor (or representative) shall intervene in the most appropriate manner, in order to control the situation. A written record of such interventions shall be kept for a minimum of 3 months, detailing such interventions and persons involved, and must be made available at all times upon request for inspection by the Licensing Authority and the Metropolitan Police.**

*Reason: To control the level of disturbance from the car park serving the premises and customers leaving the premises in order to prevent public nuisance.*

Regards

Mike

**Mike Richardson**  
**Senior Public Protection Officer**  
**Environmental Health**

Town Hall Main Road, Romford  
RM1 3BB

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## Licensing Act 2003 Responsible Authority representation

This representation is made by a responsible Authority for the London Borough of Havering concerning an application for a review of a premises licence.

**Premises Name and address:** Licensing Act 2003 – Review of the premises licence for Array, 91 Shepherds Hill, Harold Wood, RM3 0NP

**Your Name:** Michael Richardson

**Organisation name/name of body you represent:** London Borough of Havering/Environmental Protection

**Your Address:** C/O, Town Hall, Main Road, Romford, Essex, RM1 3BD

**Email:** Mike.Richardson@havering.gov.uk

**Contact telephone number:** 01708 433661

**Summary of Objection:** Representation based upon the licensing objective of public nuisance being undermined.

### Policy Considerations

#### 12. Licensing Hours

12.1 When dealing with new and variation applications the Licensing Authority may give more favourable consideration to applications with the following closing times:

Public Houses and Bars 23:00 hours Sunday to Thursday Midnight Friday and Saturday

Nightclubs 01:00 hours Sunday to Thursday 02:00 hours Friday and Saturday

Restaurants and Cafes 23:00 hours Sunday to Thursday Midnight- Friday and Saturday

Off licences 23:00 Monday to Sundays

Hot food and drink supplied by takeaways, fast food premises Midnight- Sunday to Thursdays 01:00 Friday and Saturday

Hotel residents only 24 hours sale of alcohol for on sales only

12.2 Consideration will also be given to the type of area that the premises is located in with regulated activities normally being permitted until 23.30 in residential areas and 00.30 in mixed use areas

## 17. Noise

17.1 The Licensing Authority is committed to protecting the amenity of residents and businesses in the vicinity of licenced premises, particularly when late hours have been sought. Where relevant representations are received, the Licensing Authority will request appropriate restrictions or controls on the licence to support the prevention of undue noise disturbance from licensed premises.

17.2 The Licensing Authority will seek to balance the protection of residents from undue disturbance against noise and the activity that is the natural by-product of people going about their business, entertainment or leisure.

17.3 The Licensing Authority expects that premises intended for the provision of noise-generating licensable activities are acoustically controlled and engineered to a degree where the noise from the premises when compared to the ambient noise level will not cause undue disturbance. The Licensing Authority recognises specific difficulties associated with premises structurally linked to would be licensed premises and the limit of sound insulation performance that can be achieved. In some circumstances licensed premises adjoining residential properties may not be appropriate.

## **Representation**

I have considered the application and wish to make representations that the licensing objective of the prevention of public nuisance is being undermined.

The Council's Environmental Protection Team have been investigating allegations of noise nuisance from the premises since it opened in August 2021. I have received a number of emails and complaints from residents regarding the premises, alleging issues with parking, noise from vehicles as they leave the venue, noise from customers as they leave the venue/wait for taxis, as well as noise from the venue itself, from both customer noise and music.

As a result of these complaints, monitoring has been carried out regarding the premises on at least 13 occasions since February 2022. Evidence submitted by the residents has also been reviewed, and monitoring using our recording equipment was carried out over the weekend of 21-24 October 2022. Full summaries of this monitoring, and key milestones within the investigation can be found in the attached documentation, marked MR/1.

In summary, music from the front of the venue was not considered to be causing a public nuisance, except on a couple of occasions in the summer when the front door of the venue was observed to be propped open, allowing the music to escape. However, frequently on the monitoring visits, music from the rear of the

venue (known as Bayou) has been witnessed both within the neighbouring residential properties (including gardens) and also on the access track by the side of the venue, which is adjacent to neighbouring residential properties. The level of music, whilst not excessive, would affect the behaviour of these occupiers, who would not wish to listen to the music into the early hours of the morning, and therefore have to modify their lifestyles to reduce the impact of the venue on the enjoyment of their premises.

Similarly, in these neighbouring residential areas, customer noise has been clearly audible, although to varying degrees of disturbance.

Monitoring is continuing to establish if the level of music from the venue, and in particular the Bayou area, amounts to a statutory nuisance. If Officers consider that a nuisance is occurring, or is likely to occur, the Council is obliged to serve an abatement notice.

Particular concern is made regarding the terminal hour of the music in the Bayou, where music was audible within neighbouring bedrooms into the early hours. During the recent monitoring exercise, amplified music was recorded after 23.00 hours on Friday 21 October (until about 01.00 hours the following morning); after 23.00 hours on Saturday 22 October (continuing to at least 00.34 hours the following morning). Music was also recorded between about 20.00-22.30 hours on Sunday 23 October 2022.

During these recordings, a number of car horns were also heard between 22.07-22.08 hours on 21 October 2022.

I am concerned regarding the music within the rear of the venue/Bayou area, that this continues into the early hours of the morning, as well as being played whenever the venue is open, which causes a public nuisance to neighbouring noise sensitive premises. Neighbours are unable to have reasonable use of their property, without being irritated by the music on a regular basis, which is exacerbated into the early hours of the morning at the weekend, delaying them from going to bed at a time that they may wish.

As such, the use of the rear of the premises, which is "open to the air", with an acoustically poor structure into the early hours of the morning is unreasonable. It is likely to prevent neighbours from having their windows open in the summer for ventilation, delaying sleep, and also being audible whenever they use their external amenity spaces, causing annoyance and distress to these residents.

As the Bayou is currently used as a Shisha Lounge, the structure needs to be "open to the air", and therefore the sound from both customers and the music in this area cannot be adequately contained by the fabric of the building. This is unlike the bar area at the front of the premises, which has good sound insulation, minimising noise breakout.

It should also be noted that complaints of maintenance works have also been received, which were first raised with the venue at the site meeting on 20 July

2022, but further works were carried out during the early hours of 11/12 August 2022.

As a result, a Community Protection Warning (CPW) was served on CetGul Ltd, on 12 August 2022, requiring them to carry out any maintenance and audible cleaning works within the prescribed hours of 08.00-18.00 Monday-Friday, 08.00-13.00 hours on Saturday, and no noisy works on Sundays or Public/Bank Holidays. Since the service of the CPW, the venue has complied with these requirements.

## **Conclusion**

Whatever the decision of the sub-committee, consideration may also be given to adding conditions which requires that the music in the Bayou/external areas of the premises is turned off at a set time and/or is regularly monitored to ensure that it does not cause a public nuisance to neighbouring residential properties. This will ensure that local residents are not unduly affected by the music from the venue. The DPS or representative can ensure that this is complied with by regular patrols of this area, and if the music is audible at the boundary of noise sensitive premises, the music level is reduced so as to be inaudible, particularly considering the residential character of the area.

However, this consideration does not address the issue of customer noise in the Bayou/external areas to the rear of the premises, which could be conditioned to ensure that it is closed to customers after a set time.

If the current hours of the premises are not modified, I would recommend the following conditions are added to the operating schedule, to prevent a public nuisance occurring from the premises:

**No amplified sound or other music shall be played via external speakers, or within the part of the premises currently known as the “Bayou” after 23.00 hours.**

*Reason: To ensure that any music and amplified sound from the licensed premises does not cause a public nuisance.*

**The Premises Supervisor (or representative) shall actively monitor the volume of music emanating from the premises and adjust the volume to ensure that any amplified sound or other music from the licensed premises does not cause a public nuisance.**

**Records of monitoring, and action taken, shall be kept for a minimum of 3 months upon the premises, and made available for inspection by the Licensing Authority immediately upon request.**

*Reason: To ensure that any music and amplified sound from the licensed premises does not cause a public nuisance.*

**Advice:**

Adjusting the volume of music to a level that is inaudible at any properties where the occupiers are likely to be sensitive to noise is a tighter restriction than required to prevent public nuisance. However, any music that is audible at this point has the potential to cause annoyance and lead to public nuisance, especially late at night, even at a very low volume.

The advice on inaudibility at the boundary of neighbouring noise sensitive premises has been provided to try and reduce any ambiguity in the condition, and provides the Premises Supervisor with a clear benchmark for compliance.

In practical terms, it is possible that the music can be audible beyond this point and this condition still complied with, however the Premises Supervisor would be at risk of causing a public nuisance depending on the circumstances at that time.

**Doors and windows to the premises shall remain closed (save for entrance and egress) at all times when regulated entertainment is occurring.**

**A self-closing device will be fitted and used at all times on all doors leading to the external areas of the premises.**

*Reason: To ensure that any music and amplified sound from the licensed premises does not cause a public nuisance.*

**Complaint and Inspection History (if applicable)**

**See MR/1**

**Other documents attached: None**

Signed



Michael Richardson, Senior Public Protection Officer

Dated: 2 November 2022

## MR1

A brief outline of the visits, evidence provided by residents and monitoring by the EPU's investigation into these complaints are as follows:

Date of complaint/visit	Complaint	Outcome
04/02/22	Issue with live band on Weds 2 Feb – possible opening event for Bayou Lounge	Contacted venue – and discussed issue on 07/02/22. Venue apologised for disturbance, admitting that the music was “probably a bit loud”. Advised that they had spoken to neighbours and apologised directly to them.
07/02/22	Video of congestion and horns beeping on Shepherds Hill at about 23.58hrs on 05/02/22.	Police matter due to being an issue with traffic.
23/02/22	Site visit with licencing, venue and their licencing advisor. (MR)	Advice given. Noise limiter in place within venue, but not set by LA. Not sure if this covers the Shisha part (probably where worse breakout is) – Venue will arrange for noise limiter to be set with LA's input. Noise from within the venue is likely to be contained due to solid structure of building.
26/02/22	Visit to neighbouring property. 22.30-23.20. (MR)	Approx 11 Vehicles parked along Shepherds Hill. Noise from generator on carpark, due to power issues at the restaurant. Music from front of premises, not audible. However, to the rear, was clearly audible in garden area of property. With doors and windows closed, not audible. Could be worse in summer months when windows open for ventilation. As leaving area, some noise from customers leaving (saying bye, etc) and also loud exhausts from car as leaving car park.
04/03/22	Street site visit 22.00-22.30 (GW)	Walked on the opposite side of the road past the premises on a couple of occasions. Low level music was audible from the western side of the premises (from Bayou). Stood three houses away and could hear the bass element of the music, though not a SN,

		<p>but had the potential to cause annoyance to residents in nearest residential dwellings.</p> <p>Full car park, 2 people standing outside having a normal conversation.</p> <p>Temp traffic lights in place, causing stationary vehicles may have increased the background noise level or masked the noise the restaurant on the night.</p>
11/03/22	Street visit @ about 22.30 hours (GW)	<p>From the street, low level bass beat emanating from the premises witnessed. Wet evening and the premises car park was not full like previous week. Did not seem as busy. No other noise from the external areas. No unreasonable behaviour witnessed.</p>
29/03/22	Discussions with licencing advisor re noise limiter – will be getting a consultant to review the provision. (MR)	<p>Await response (chasing email sent 08/06/22) – certificate of calibration recd later that day, but dated 22/04/2018 (presumably a typo). Still not done in agreement with LA.</p>
02/04/22	Street site visit 23.35-23.45 (MR)	<p>No noise witnessed from front of venue. No sig issues with traffic. 8 cars parked along Shephards Hill (including 1 in the bus stop outside the venue). In Philida Rd, 3 cars parked. 1 departed whilst on site, witnessed a female come from the venue, and then get in the car). No ASB issues witnessed.</p> <p>Along access road adj to venue - music audible from Bayou Lounge. Did look like the roof of the venue was closed though, and rear windows/doors were also shut.</p>
30/04/22	Street visit 23.00-23.05 (MR)	<p>No issues re music. Approx 12 cars parked along Shepherds Hill, and 14 down Phillida Road - some double parked. (Photos also provided by resident during following week)</p>
02/06/22	Street visit@ 21.00. (GW)	<p>Stood at the bus stop directly outside the premises. Music emanating from the premises was barely audible. Patrons were just arriving and car park was nearly full. Just one car parked in the main road. No unreasonable behaviour witnessed.</p>



18/06/22	Video recd re cars revving along Shepherds Hill late at night	Police matter for unreasonable activities (Poss S59 action)
24/06/22	Site visit 22.45-23.30. Didn't enter property due to not completing Covid RA (GP)	<p>11 cars parked on Shepherds Hill, turning the road into a single lane at points. No cars blocking driveways. Two instances of horns from cars driving past.</p> <p>Spoke to residents, who indicated that this evening was unusually quiet compared to most weekends.</p> <p>Couldn't park at Phillida Road as there were no spaces without parking on double yellow lines or blocking the road and or residential drives.</p> <p>Music not significant.</p>
02/07/22	Site visit between 14.00-15.00hrs – due to intelligence re brunches to be held at Array (GP)	<p>Music audible approx. 72 meters away from venue, predominantly bass beat. Noted that the front doors were propped open.</p> <p>No cars parked on the road of Shepherds Hill and no activity outside the Array.</p> <p>One resident advised me they had recently moved in, and the evening hours during the weekends are the most disturbing during the closing period. Customers play music from their cars and have loud exhausts when driving away. Conversation is clearly audible to the point that what is being said is understood. On occasions he has collected broken glass from the front of his property.</p> <p>At approx. 14:22 observed a loud exhaust from a customer or staff member leaving the premises and the same when they returned approx. 20 minutes later.</p> <p>Front doors closed of venue was then closed, and noise level reduced considerably.</p>

		No activity from the back/Bayou area of the premises witnessed.
09/07/22	Report of "brawl" at premises at about 01.15 hrs. With accompanying video via Cllr	Reviewed video – noise from argument clearly audible, with raised voices
16/07/22	Street site visit between 23.00-00.00 hrs (GP)	<p>Sound of entertainment from the Array was contained, windows/doors closed. Bass beat from front of property could be heard, but not sufficient to amount to a stat nuisance. Maybe internal door left open?</p> <p>7 parked cars on the road of Shepherds Hill created a single lane road at points. No driveways appeared to be blocked.</p> <p>Two instances of cars leaving venue with loud exhausts and backfire which may of disturbed residents at 23:20 &amp; 23:27.</p> <p>Car alarm at the rear car park at about 23:15 for aprox 30 sec.</p> <p>Group of female customers leaving at 23:53 were having a loud and audible conversation about travelling home and laughing. A bouncer approached and requested that they leave quietly so local residents are not disturbed.</p>
20/07/22	Site meeting with licencing, Food/H&S, police licencing officer and reps from venue (including licencing rep) (MR)	<p>Discussed music witnessed on 02/07/22 and 16/07/22, where front/internal doors were left open. Agreed this should not be occurring (have aircon). Will ensure that door staff keep an eye on this.</p> <p>Brawl on 9/7/22 - argument between a male and female, security split them up and dealt with it without needing to call the police.</p> <p>Discussed the ongoing issues with the parking/traffic/cars/etc. David Dadds has written a dispersal policy, and will forward it onto</p>

		<p>OD.</p> <p>If particular noisy cars are an issue - Mr Dadds advised if aware of time/date they can check the CCTV, and then not accept any bookings from that person again.</p> <p>The bar area is only for diners, and they are now turning customers away due to popularity.</p> <p>Building work last night (reported via residents) - this was to remove the glass panels of the Shisha bar to comply with smoke free legislation. Advised they shouldn't be doing this at midnight.</p> <p>Advised venue to monitor on the boundary for music (which they say they do) and also log it on daily log to demonstrate what action (if necessary) was taken.</p>
23/07/22	Street visit between 22.50 -23.05 hrs. (MR)	<p>Approx 20 cars parked along Shepherds Hill - only 1 parking over a dropped kerb (slightly) but not obstructing entrance or exit.</p> <p>7 cars on Philida Rd - 1 van was ticketed as parked on kerb.</p> <p>Music from venue audible, particularly along track adj to property (from Bayou) could clearly hear the bass beat and some lyrics, but not wholly convinced causing a stat nuisance as not in comp property.</p> <p>Could smell the shisha, and appeared that the windows had been replaced to the rear of Bayou.</p>
30/07/22	Street visit at about 23.25hrs. (GP)	<p>15 parked cars on Shepherds Hill turning the road into a single lane at points. No obvious signs of obstruction of driveways.</p> <p>Music contained within the Array, windows and doors were closed at the front. Could not detect smoke from the Shisha lounge.</p>

		Observed from the side/rear of the premises and could not see any activity in this area.
06/08/22	Street visit at about 22.45 hrs (GP)	Witnessed smoke from the right side of venue (viewing from street) of the premises, white in colour.  Three cars on the road, no driveways blocked.  No issued of noise from the premises, windows and doors closed.  Noticed a PCN issued on a black BMW parked on the pavement.
06/08/22	Video recd re argument outside venue – at about 23.23 hrs	Can hear people shouting/arguing as well as horns beeping. Appears that security got involved.
09/08/22	Video recd re incident in car park in early hours of 09/08/22	Can hear people shouting in the front carpark, and one female voice in particular shouting “Hey, Hey, Hey” in a repetitive manner for at least 5 seconds, and other shouting audible including “are you ready”.
11/08/22	Report of cleaning kitchen tools and filters in car park at about midnight	Community Protection Warning served on venue re maintenance works occurring outside of Council’s recommended hours.
13/08/22	Video recd re music in Bayou @ 23.45	Music audible and also customer noise
25/08/22	Street visit at about 21.30 re other issues (GP)	5 cars parked on Shepherds Hill, but not causing sig issues. No issues with noise witnessed.
04/09/22	Video recd re music in Bayou @ 23.43	Music audible and also particularly loud customer laughing
20/09/22	Video of music and customer noise on 20/09/22 at about 16.16	Music very clear, and also could clearly hear customers cheering and shouting. Possible issue, as seems louder than previous evidence.
25/09/22	Video of noise from live singer at 20.25 on 25/09/22	Can clearly hear female singer singing Maroon 5’s “This Love”.
02/10/22	Videos of music/people noise at 23.05, 23.50 on 01/10/22 and at 01.13 on 02/10/22	Music audible in earlier recordings. Can also hear people noise from customers. At 01.13, music had stopped, but people noise still audible.
08/10/22	Site visit to neighbour at about 22.05 hrs (GP)	7 cars parked cars on Phillida Road. Spoke to resident of Phillida road who

		<p>advised these cars did not belong to the residents. Residents have begun parking across their own drives to prevent from being blocked in during the evening.</p> <p>Walked up Shepherds hill and counted 44 cars parked on the road turning the road into a single lane. 4 cars parked across driveways. During this time 5 different residents spoke to officer to voice their upset.</p> <p>Entered neighbouring property at about 22.30hrs. Listened to music in the garden - music was clearly audible. Complainant advised it was also noise from customers and vehicle exhausts that were disturbances.</p> <p>In the master bedroom, with the windows closed the music from "Bayou" could be heard, but resident said this was lower than normal.</p>
17/10/22	Video received re event in front carpark (21.10 hrs)	Reviewed video – music clearly audible, and some event occurring in front car park – appears to be a person in a polar bear or similar costume, (eg mascot) with music. Can also hear people noise. Music appears loud, and unreasonable.
21/10/22	Installed monitoring equipment for weekend (MR)	<p>Reviewed 31/10/22 – music from venue clearly audible until about 01.00 hours on Friday night/Sat morning, as well as until about 00.30 hours Sat/Sunday and until about 22.30 hrs on Sunday.</p> <p>Whilst the levels were not excruciatingly loud, clearly audible (with window open), and would impact the use of this room. Require further visits by officer to determine if stat nuisance occurring.</p> <p>Resident confirmed that the music was coming from the Bayou area.</p>