

Mr A Ozdemir  
37 Queens Road  
Benfleet  
SS7 1JN

Date: 20 March 2017

Our Reference: 17/00225/LICPRE

Dear Mr Ozdemir

**Representation by Environmental Health**  
**Tasty Bites, 275-277 High Road, Benfleet SS7 5HA**  
**Licensing Act 2003**

Please find enclosed the representation (including supporting documents) made by Environmental Health in respect of the premises licence application for Tasty Bites.

If you wish to discuss the matter further or if there are conditions you would accept on the premises licence that you feel would control the potential public nuisance to local residents, please contact me prior to the Licensing Sub-Committee hearing next week.

Yours sincerely,

*J. H. Parker - East*

Janette Parker-East  
Environmental Health Officer

**Enclosures:**

Notice of actions following receipt of notice of hearing (LAR1)  
Environmental Health Representation  
Planning Decision Notice  
Memo with response from Environmental health Service to Planning application  
Enforcement action (COPA notice and hearing date)  
Photos of terrace including opening hours of businesses

## Notice of actions following receipt of notice of hearing

To MELANIE HARRIS, HEAD OF LICENSING AND SAFER COMMUNITIES<sup>Council</sup>  
of CASTLE POINT BOROUGH COUNCIL, COUNCIL OFFICES, BENFLEET, ESSEX,  
SS7 1TF

I MRS J. M. PARKER-EAST, ENVIRONMENTAL HEALTH OFFICER  
of CASTLE POINT BOROUGH COUNCIL, COUNCIL OFFICES, BENFLEET, ESSEX,  
SS7 1TF

hereby confirm that I have received the Notice of Hearing dated 8<sup>TH</sup> MARCH 2017  
and notify you as follows:

[I do ~~do not~~ intend to attend the hearing] ON MONDAY 27<sup>TH</sup> MARCH 2017 AT 10:30 AM.

~~[I do [do not] intend to be represented at the hearing [by]:~~

]

~~[I consider the hearing to be unnecessary because:~~

]

~~[I request that~~ should appear  
~~at the hearing and set out below the point or points on which this person may be able to assist the  
authority in relation to this application, representations or notice of the party making the request~~

]

Dated 16/03/2017

Signed J. M. Parker-East

## Regulation 8

- 8 (1) A party shall give to the authority within the period of time provided for in the following provisions of this regulation a notice stating —
- (a) whether he intends to attend or be represented at the hearing;
  - (b) whether he considers a hearing to be unnecessary
- (2) In a case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.
- (3) In the case of a hearing under —
- (a) section 48(3)(a) (cancellation of interim authority notice following police objection), or
  - (b) section 105(2)(a) (counter notice following police objection to temporary event notice),

the party shall give the notice no later than one working day before the day or the first day on which the hearing is to be held.

- (4) In the case of a hearing under —
- (a) section 167(5)(a) (review of premises licence following closure order) or section 53(C) (review of premises licence following review notice),
  - (b) paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence),
  - (c) paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate), or
  - (d) paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence),

the party shall give the notice no later than two working days before the day or the first day on which the hearing is to be held.

- (5) In any other case, the party shall give the notice no later than five working days before the day of the first day on which the hearing is to be held.

## **Premises Licence Application – Environmental Health Representation**

This representation is made on behalf of Castle Point Borough Council's Environmental Health Service. I confirm that I am authorised to speak at any hearing on behalf of the Environmental Health Service. I am employed by the Castle Point Borough Council as an Environmental Health Officer. The Environmental Health Service exercise the Council's responsible authority functions under the Licensing Act 2003 in relation to health and safety and environmental health.

**Name and address of premises:** Tasty Bites, 275-277 High Road, Benfleet, Essex, SS7 5HA

**Type of Application:** New Premises Licence

I certify that I have considered the new premises licence application made on 9<sup>th</sup> February 2017 and that I wish to make representations that the likely effect of this licence is detrimental to the Licensing Objectives.

### **Background History:**

Tasty Bites is situated in a three storey terraced block which consists of 13 commercial units with maisonettes above on the first and second floors. The maisonettes have a lounge at the front on the first floor directly above the commercial units and a bedroom above that at the front on the second floor. Built in the 1960's/1970's the block wouldn't have been built with current standards of insulation with regard to noise and vibration.

There are 11 individual businesses, Tasty Bites and an opticians being the only double (larger) units. Eight of the businesses close by 17:30 at the latest. The remaining two are a newsagents which sells alcohol but closes by 20:00 and is not particularly large or busy. The other is an Indian Restaurant which has no outside seating area, has half as many covers (32) as Tasty Bites (64) and has never been particularly busy in the 23 years I have been working within Environmental Health in Castle Point.

In May 2016, the Environmental Health Service responded to a Planning Application from Tasty Bites to vary the opening hours. The response at that time expressed concerns about the likelihood of noise disturbance from the extended hours and requested an assessment be carried out. Under the Planning legislation Environmental Health are not statutory consultees and on this occasion the response was not included as a condition to granting of the application. At the last routine food hygiene inspection in November 2016 the operating hours were given as 08:00 to 17:00 so although the Planning decision was in favour of the applicant as yet the premises has not been operating the extended hours.

During the summer of 2016, the Environmental Health Service investigated complaints relating to the noise from construction works at Tasty Bites occurring

during anti-social hours due to the refurbishment of the premises. As a result of those investigations and a lack of cooperation from Mr Ozdemir with the officers involved, it was necessary to serve a notice on Mr Ozdemir under section 60 of the Control of Pollution Act 1974. The notice required Mr Ozdemir to ensure that all noisy works be restricted to reasonable working times. Namely eight to six Monday to Friday, eight to one on Saturdays with no works on Sundays and Bank Holidays. Unfortunately breaches of the notice were witnessed by officers and the case was sent to the legal department for prosecution. The Court hearing will take place on the 29 March 2017.

Although this is being dealt with by separate enforcement action I believe it is important as it did indicate a lack of cooperation and flagrant breaches of a statutory nuisance by Mr Ozdemir giving concerns regarding the management of potential noise nuisance at the venue especially from live music events and the use of the decking at the front for smoking.

This issue also highlights the potential for noise nuisance from other activities at this premises which are a consideration under the Licensing Act and the works were not being carried out until such late hours as are proposed in this application.

### **Reasons for Representation**

On behalf of Environmental Health, I am satisfied that allowing the premises to be used in accordance with the licence and operating schedule would undermine the licensing objective, Prevention of Public Nuisance.

In light of the close proximity to local residents, the potential for noise disturbance from customers attending the premises up until 11.00pm and also dispersal of customers at such a late hour will be extremely high.

The application does not include measures to mitigate noise nuisance to residents from the playing of live or recorded music on the premises or from customers coming in and out of the premises and smoking or sitting outside.

The only possible smoking area is at the front of the premises which is located directly below the lounge and bedrooms of the maisonettes above. This is a seated dining area which will encourage smokers to linger.

The premises is large inside with a significant counter area which could be used as a bar. Although there is enough seating for 64 covers there is ample space to accommodate larger numbers. The application does not indicate that the service of alcohol is conditional on the purchase of food which suggests the aim of the applicant is to convert a café into a bar and live music venue which would in my opinion be totally unacceptable for this location.

I don't believe that this business can operate the proposed hours providing alcohol either with recorded and certainly not with live music without causing a significant nuisance to local residents.

In my opinion if this application goes ahead residents will have to suffer a nuisance which is both foreseeable and preventable.

**Evidence provided:**

Planning Decision Notice

Memo with response from Environmental Health Service to Planning application

Enforcement action (COPA notice and hearing date)

Photos of terrace including opening hours of businesses

## MEMORANDUM

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**From: Environmental Health Services**

**My Ref: 16/00578/PLAPC**

**To: Planning Department**

**Your Ref: 16/0341/VAR**

**Date: 17<sup>th</sup> May 2016**

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Dear Sir/ Madam,

This Service has now had the opportunity to view the application **16/0341/VAR - Variation of condition 2 of permission 15/0530/FUL to amend opening hours to 07.30-23.00 on Monday-Saturday, and 09.00-22.00 on Sundays and bank holidays Address: 275-277 High Road Benfleet Essex SS7 5HA.**

This location is a mixed residential/commercial site. Extended hours of operation and relocation of plant will increase the likelihood of noise disturbance to the locality; therefore this Service would like to raise the following condition in response:

**1. Noise attenuation scheme**

Submit a noise mitigation scheme in writing, to be approved by the local planning authority, detailing measures that will be implemented to ensure that any noise associated with the development does not cause detriment to the amenity or a nuisance.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby.

Yours faithfully,

**Drew Watkins BSc. (Hons)**  
*Environmental Health Technical Officer*

## DECISION NOTICE

Town and Country Planning Act 1990  
Town and Country Planning (Development Management Procedure) (England) Order 2015

**APPLICATION NO. 16/0341/VAR**

### Notice of determination in respect of Variation of Condition Application

**TO:** Mr Ahmet Ozdemir C/O Mr Ibrahim Ozdemir 37 Seaview Road Canvey Island Essex SS8 7PB

The COUNCIL having considered your application to carry out the variation:-

Variation of condition 2 of permission 15/0530/FUL to amend opening hours to 07.30-23.00 on Monday-Saturday, and 09.00-22.00 on Sundays and bank holidays

**At:** 275-277 High Road Benfleet Essex SS7 5HA

does hereby give you notice that for the reasons set out in the Officer's Report for variation of the above detailed condition imposed by previous permission, give notice of their decision to grant variation, subject to compliance with all the conditions and notes specified hereunder:-

- 1 The development hereby permitted shall be begun on or before the expiration of three years beginning with the date of this permission.

**REASON:** This condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

- 2 The premises shall not be open for business outside the hours of:  
07:30 to 23:00 on Mondays to Saturdays  
09:00 to 22:00 on Sundays and Bank or Public Holidays

**REASON:** To protect the amenity of occupiers of surrounding residential properties.

Date 27th June 2016

Signed by



**R. Davis**

Planning Development & Enforcement Mgr

Page 1 of 4

**Application No: 16/0341/VAR**

**IMPORTANT – ATTENTION IS DRAWN TO THE ATTACHED NOTES**



**INVESTORS  
IN PEOPLE** Gold



## INFORMATIVE

- 1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Date 27th June 2016

Signed by



**R. Davis**

Planning Development & Enforcement Mgr

Page 2 of 4

Application No: 16/0341/VAR

**IMPORTANT – ATTENTION IS DRAWN TO THE ATTACHED NOTES**



INVESTORS  
IN PEOPLE



@CastlePointBC  
[www.castlepoint.gov.uk](http://www.castlepoint.gov.uk)

## NOTES

(1) If the applicant is aggrieved by the decision of the Local Planning Authority (LPA) to refuse permission or approval for the proposed development, he may appeal to the Secretary of State in accordance with Section 78 (i) of the Town and Country Planning Act 1990, within the following time periods:-

6 months (or 12 weeks if householder or minor commercial planning application) from the date on the decision notice in the case of a refusal,

6 months from the date on the decision notice for an appeal against conditions, or

6 months from the expiry of the period which the LPA had to determine the application.

However, if an enforcement notice has been served for the same or very similar development within the previous 2 years, the time limit is:-

28 days from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made, or

28 days from the date the enforcement notice was served on or after the date the decision was made (unless this extends the appeal period beyond 6 months).

NB – The LPA determination period is usually 8 weeks (13 weeks for major developments and 28 days for non-material amendment applications). If you have agreed a longer period with the LPA, the time limit runs from that date.

Appeals can be made online at [www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs) or on a form which is obtainable from the Secretary of State, The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or from their Customer Services team on 0303 444 5000. The Secretary of State has power to allow a longer period for giving notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the LPA, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order.

(2) If permission to develop land is refused, or granted subject to conditions, whether by the LPA or by the Secretary of State and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council of the County District in which the land is situated a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act, 1990.

(3) In certain circumstances, a claim may be made against the LPA for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of an application to him. The circumstances in which compensation is payable are set out in Section 114 of the Town and Country Planning Act, 1990.

(4) This decision is for PLANNING PURPOSES ONLY. It is necessary for your plans to be passed by the Borough Council under their BUILDING REGULATIONS (unless this has already been done or they are exempted therefrom)

### ----- Access and Facilities for the Disabled

If the permission relates to buildings or premises to which the public are admitted and/or comprises offices, shops, factory, railway premises, university, college or school, your attention is drawn to the provisions of the Chronically Sick and Disabled Persons Act 1970. The Code of Practice for Access for the Disabled to Buildings

(BS 5810:1979), Access for Disabled People to Educational Buildings (Design Note 18:1984) and to Section 76 of the Town and Country Planning Act 1990.

#### **Access and Facilities to be provided for Disabled People**

The requirements and guidance can be found in Part M within Schedule 1 to the Building Regulations 1991 and in the accompanying approved documents to that regulation. Where proposals are controlled under the Building Regulations for access and facilities for disabled people early consultation with the Building Control Officer is advisable and recommended.

#### **Access for the Fire Brigade**

The provisions of Section 13, Essex Act 1987 (Access for Fire Brigade) shall apply to this development and will be determined at the Building Regulation stage. The plans deposited shall show that the building, the building as extended and/or any neighbouring building that may be affected by the proposal, has adequate means of access for the Fire Brigade.

Date: 22 August 2016

Our Reference:  
16/01096/N\_NCT  
Your Reference:

Mr A Ozdemir  
277 High Road  
Benfleet  
Essex SS7 5HA

Dear Mr Ozdemir,

**Control of Pollution Act 1974  
275- 277 High Road, Benfleet, Essex SS7 5HA**

As you are aware this Service has received complaints from local residents regarding noise disturbance from the construction works currently being undertaken at 275- 277 High Road, Benfleet, Essex SS7 5HA. Noise disturbance is occurring early in the morning, late in the evening and on Sundays.

Following a site visit by myself and Mr Scott Grant on the 18<sup>th</sup> August and a telephone conversation between myself and Mr Ozdemir on the 19<sup>th</sup> August 2016 concerning the matter, I enclose a notice under Section 60 of the Control of Pollution Act 1974 restricting audible building work hours to:

- Monday to Friday- 08.00 to 18.00hrs;
- Saturday- 08.00 to 13.00hrs;
- Sunday and Bank Holidays- no works which are audible beyond the property boundary.

Castle Point Borough Council believes that the above times and requests are those that are reasonable and will cause minimal disturbance to residents.

Failure to comply with this Notice is an offence against Part 3 of the Control of Pollution Act 1974 and on summary conviction will be liable to a fine not exceeding level 5 on the standard scale of fines and altogether, in any case, with a further fine for each day on which the offence continues after conviction.

I must advise that this Service will be regularly monitoring the site, along with the local residents, to ensure that this notice is being complied with. We will not hesitate to instigate further legal proceedings if any breaches are witnessed.

Please note a copy of this letter has been sent to both addresses; 277 High Road, Benfleet and 37 Seaview Road, Canvey Island both to Mr A Ozdemir and CAKA Ltd

Yours sincerely,



Carla Okiklade

Environmental Health Technical Officer  
01268 882491 (Direct line)  
[cokiklade@castlepoint.gov.uk](mailto:cokiklade@castlepoint.gov.uk)



[www.castlepoint.gov.uk](http://www.castlepoint.gov.uk)  
Twitter: @CastlePoint

**Control of Noise on Construction Sites: Notice Imposing Requirements**

To: Mr Ahmet Ozdemir

Address: 277 High Road, Benfleet, Essex

Postcode: SS7 5HA

Relating to: 275- 277 High Road, Benfleet, Essex SS7 5HA.

Served a true copy of this Notice  
upon A. Ozdemir  
by Carla Okatiade  
on 20th day of

August 2016  
Signed [Signature]

Hand served to A. Ozdemir

It appears to Castle Point Borough Council 'the Council', that works to which section 60 of the Control of Pollution Act 1974 applies namely: construction works which are currently being undertaken at 275- 277 High Road, Benfleet, Essex SS7 5HA.

Take Notice that, under the provisions of the above-mentioned legislation, 'the Council' requires you to comply with the following in connection with the carrying out of such works:


1. *The site may operate without any noise restrictions between the hours of:*
  - a) 08:00 and 18:00 Monday to Friday;
  - b) 08:00 and 13:00 on Saturday.
2. *The site shall not operate at all on Sundays and Public Holidays or outside the hours permitted by this Notice.*
3. *The site may operate from 07:00 Monday to Saturday, but no powered plant or machinery or power tools or activities such as hammering, piling and unloading materials and equipment likely to give rise to impact noise shall be used, operated or carried out externally before 08:00.*
4. *The site shall close at 19:00 Monday to Friday and at 17:00 Saturday, but no powered plant or machinery or power tools or activities such as hammering, piling and unloading materials and equipment likely to give rise to impact noise shall be used, operated or carried out externally after 18:00 Monday to Friday and 13:00 Saturday.*
5. *The best practicable means, as identified in section 72 of the Control of Pollution Act 1974, to reduce noise to a minimum shall be employed at all times.*
6. *All plant and machinery in use shall be properly silenced and maintained in accordance with the manufacturer's instructions.*
7. *It shall not be a breach of this notice where works (in this paragraph called "emergency works") are carried out otherwise than in accordance with the provisions of paragraphs 1 to 6 above where:*
  - (1) *Emergency works on site are urgently and unavoidably necessary in the interests of health and safety or for the preservation of any building structure; and*
  - (2) *It is not practicable to secure health and safety or the preservation of a building structure without doing an act that would, but for paragraph 7 of this Notice be a breach; and*

- (3) Any emergency works carried out pursuant to paragraph 7 of this Notice are limited to the minimum measures immediately necessary; and**  
**(4) Notice in writing justifying in detail the carrying out of emergency works is given to the local authority as soon as it is reasonably practicable after the time it is decided that such emergency works are unavoidable.**

In the event of an appeal this notice shall not be suspended until the appeal has been abandoned or decided by the Court. You may appeal against this Notice to a magistrates' court within 21 days from the date of service.

If you contravene, without reasonable excuse, any requirement of this Notice you will be guilty of an offence against Part III of the Control of Pollution Act 1974 and on summary conviction will be liable to a fine not exceeding level 5 on the Standard Scale of fines together, in any case, with a further fine not exceeding £50 for each day on which the offence continues after conviction.

Signature:



Date: 22<sup>nd</sup> August 2016

Name in capitals: CARLA OKIKIADE

Designation: Environmental Health Technical Officer

Contact address: Environmental Health Services  
Castle Point Borough Council  
Council Offices  
Kiln Road  
Benfleet  
Essex  
SS7 1TF

Email: [EnvironmentalHealth@castlepoint.gov.uk](mailto:EnvironmentalHealth@castlepoint.gov.uk)

Telephone: 01268 882200

## **The Control of Noise (Appeal) Regulations 1975**

### **Appeals under Section 60(7)**

5.-(1) The provisions of this regulation shall apply to an appeal brought by any person under subsection (7) of section 60 (control of noise on construction sites) against a notice served upon him by a local authority under that section.

(2) The grounds on which a person served with such a notice may appeal under the said subsection (7) may include any of the following grounds which are appropriate in the circumstances of the particular case:-

- (a) that the notice is not justified by the terms of Section 60;
- (b) that there has been some informality, defect or error in, or in connection with, the notice;
- (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the 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 notice are to be complied with is not reasonably sufficient for the purpose;
- (e) that the notice should have been served on some person instead of the appellant, being a person who is carrying out, or going to carry out, the works, or is responsible for, or has control over, the carrying out of the works;
- (f) that the notice might lawfully have been served on some person in addition to the appellant, being a person who is carrying out, or going to carry out, the works, or is responsible for, or has control over, the carrying out of the works, and that it would have been equitable for it to have been so served;
- (g) that the authority have not had regard to some or all of the provisions of Section 60(4).

(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 notice, 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(e) or (f) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of an appeal to which this regulation applies he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises in question.

(5) On the hearing of the appeal the court may—

- (a) quash the notice to which the appeal relates, or
- (b) vary the notice in favour of the appellant in such manner as it thinks fit, or
- (c) dismiss the appeal;

and a notice which 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.

### **Suspension of Notices**

10.-(1) Subject to Paragraph (2) of this regulation, where an appeal is brought against a notice served under Sections 58, 60, or 66 and —

- (a) the noise to which the notice relates is noise caused in the course of the performance of some duty imposed by law on the appellant, or
- (b) compliance with the notice would involve any person in expenditure on the carrying out of works before the hearing of the appeal;

the notice shall be suspended until the appeal has been abandoned or decided by the court.

(2) A notice to which this regulation applies shall not be suspended if in the opinion of the local authority—

- (a) the noise to which the 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 the notice 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 notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.

And the notice includes a statement that it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court.

(3) Save as provided in this regulation a notice under Part III of the Act shall not be suspended by reason only of the bringing of an appeal to a magistrates' court or the Secretary of State.

Environment Services  
Castle Point Borough Council  
Council Offices, Kiln Road,  
Thundersley, Benfleet,  
Essex, SS7 1TF

Tel: 01268 882200  
Fax: 01268 882327

Date: 22 August 2016

Our Reference:  
16/01096/N\_NCT  
Your Reference:

The Company Secretary  
CAKA Ltd  
277 High Road  
Benfleet  
Essex SS7 5HA

Dear Sir / Madam,

**Control of Pollution Act 1974  
275- 277 High Road, Benfleet, Essex SS7 5HA**

As you are aware this Service has received complaints from local residents regarding noise disturbance from the construction works currently being undertaken at 275- 277 High Road, Benfleet, Essex SS7 5HA. Noise disturbance is occurring early in the morning, late in the evening and on Sundays.

Following a site visit by myself and Mr Scott Grant on the 18<sup>th</sup> August and a telephone conversation between myself and Mr Ozdemir on the 19<sup>th</sup> August 2016 concerning the matter, I enclose a notice under Section 60 of the Control of Pollution Act 1974 restricting audible building work hours to:

- Monday to Friday- 08.00 to 18.00hrs;
- Saturday- 08.00 to 13.00hrs;
- Sunday and Bank Holidays- no works which are audible beyond the property boundary.

Castle Point Borough Council believes that the above times and requests are those that are reasonable and will cause minimal disturbance to residents.

Failure to comply with this Notice is an offence against Part 3 of the Control of Pollution Act 1974 and on summary conviction will be liable to a fine not exceeding level 5 on the standard scale of fines and altogether, in any case, with a further fine for each day on which the offence continues after conviction.

I must advise that this Service will be regularly monitoring the site, along with the local residents, to ensure that this notice is being complied with. We will not hesitate to instigate further legal proceedings if any breaches are witnessed.

Please note a copy of this letter has been sent to both addresses; 277 High Road, Benfleet and 37 Seaview Road, Canvey Island both to Mr A Ozdemir and CAKA Ltd

Yours faithfully,



**Carla Okiklade**

Environmental Health Technical Officer  
01268 882491 (Direct line)  
[cokiklade@castlepoint.gov.uk](mailto:cokiklade@castlepoint.gov.uk)



[www.castlepoint.gov.uk](http://www.castlepoint.gov.uk)  
Twitter: @CastlePointBC



**Control of Noise on Construction Sites: Notice Imposing Requirements**

To: CAKA Ltd

Address: 277 High Road, Benfleet, Essex

Postcode: SS7 5HA

Relating to: 275- 277 High Road, Benfleet, Essex SS7 5HA.

I have received a true copy of this Notice

upon CAKA Ltd

by Carles Okkiale

on 22nd day of

August 2016

Signed [Signature]

Hand delivered 1. Ozdemir

It appears to Castle Point Borough Council 'the Council', that works to which section 60 of the Control of Pollution Act 1974 applies namely: construction works which are currently being undertaken at 275- 277 High Road, Benfleet, Essex SS7 5HA.

Take Notice that, under the provisions of the above-mentioned legislation, 'the Council' requires you to comply with the following in connection with the carrying out of such works:

1. **The site may operate without any noise restrictions between the hours of:**
  - a) 08:00 and 18:00 Monday to Friday;
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2. **The site shall not operate at all on Sundays and Public Holidays or outside the hours permitted by this Notice.**
3. **The site may operate from 07:00 Monday to Saturday, but no powered plant or machinery or power tools or activities such as hammering, piling and unloading materials and equipment likely to give rise to impact noise shall be used, operated or carried out externally before 08:00.**
4. **The site shall close at 19:00 Monday to Friday and at 17:00 Saturday, but no powered plant or machinery or power tools or activities such as hammering, piling and unloading materials and equipment likely to give rise to impact noise shall be used, operated or carried out externally after 18:00 Monday to Friday and 13:00 Saturday.**
5. **The best practicable means, as identified in section 72 of the Control of Pollution Act 1974, to reduce noise to a minimum shall be employed at all times.**
6. **All plant and machinery in use shall be properly silenced and maintained in accordance with the manufacturer's instructions.**
7. **It shall not be a breach of this notice where works (in this paragraph called "emergency works") are carried out otherwise than in accordance with the provisions of paragraphs 1 to 6 above where:**
  - (1) **Emergency works on site are urgently and unavoidably necessary in the interests of health and safety or for the preservation of any building structure; and**
  - (2) **It is not practicable to secure health and safety or the preservation of a building structure without doing an act that would, but for paragraph 7 of this Notice be a breach; and**

- (3) Any emergency works carried out pursuant to paragraph 7 of this Notice are limited to the minimum measures immediately necessary; and**  
**(4) Notice in writing justifying in detail the carrying out of emergency works is given to the local authority as soon as it is reasonably practicable after the time it is decided that such emergency works are unavoidable.**

In the event of an appeal this notice shall not be suspended until the appeal has been abandoned or decided by the Court. You may appeal against this Notice to a magistrates' court within 21 days from the date of service.

If you contravene, without reasonable excuse, any requirement of this Notice you will be guilty of an offence against Part III of the Control of Pollution Act 1974 and on summary conviction will be liable to a fine not exceeding level 5 on the Standard Scale of fines together, in any case, with a further fine not exceeding £50 for each day on which the offence continues after conviction.

Signature:



Date: 22<sup>nd</sup> August 2016

Name in capitals: CARLA OKIKIADE

Designation: Environmental Health Technical Officer

Contact address: Environmental Health Services  
Castle Point Borough Council  
Council Offices  
Kiln Road  
Benfleet  
Essex  
SS7 1TF

Email: [EnvironmentalHealth@castlepoint.gov.uk](mailto:EnvironmentalHealth@castlepoint.gov.uk)

Telephone: 01268 882200

## **The Control of Noise (Appeal) Regulations 1975**

### **Appeals under Section 60(7)**

5.-(1) The provisions of this regulation shall apply to an appeal brought by any person under subsection (7) of section 60 (control of noise on construction sites) against a notice served upon him by a local authority under that section.

(2) The grounds on which a person served with such a notice may appeal under the said subsection (7) may include any of the following grounds which are appropriate in the circumstances of the particular case:-

(a) that the notice is not justified by the terms of Section 60;

(b) that there has been some informality, defect or error in, or in connection with, the notice;

(c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the 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 notice are to be complied with is not reasonably sufficient for the purpose;

(e) that the notice should have been served on some person instead of the appellant, being a person who is carrying out, or going to carry out, the works, or is responsible for, or has control over, the carrying out of the works;

(f) that the notice might lawfully have been served on some person in addition to the appellant, being a person who is carrying out, or going to carry out, the works, or is responsible for, or has control over, the carrying out of the works, and that it would have been equitable for it to have been so served;

(g) that the authority have not had regard to some or all of the provisions of Section 60(4).

(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 notice, 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(e) or (f) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of an appeal to which this regulation applies he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises in question.

(5) On the hearing of the appeal the court may—

(a) quash the notice to which the appeal relates, or

(b) vary the notice in favour of the appellant in such manner as it thinks fit, or

(c) dismiss the appeal;

and a notice which 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.

### **Suspension of Notices**

10.-(1) Subject to Paragraph (2) of this regulation, where an appeal is brought against a notice served under Sections 58, 60, or 66 and —

(a) the noise to which the notice relates is noise caused in the course of the performance of some duty imposed by law on the appellant, or

(b) compliance with the notice would involve any person in expenditure on the carrying out of works before the hearing of the appeal;

the notice shall be suspended until the appeal has been abandoned or decided by the court.

(2) A notice to which this regulation applies shall not be suspended if in the opinion of the local authority—

(a) the noise to which the 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 the notice 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 notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.

And the notice includes a statement that it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court.

(3) Save as provided in this regulation a notice under Part III of the Act shall not be suspended by reason only of the bringing of an appeal to a magistrates' court or the Secretary of State.

Date: 22 August 2016

Our Reference:  
16/01096/N\_NCT  
Your Reference:

The Company Secretary  
CAKA Ltd  
37 Seaview Road  
Canvey Island  
Essex SS8 7PB

Dear Sir / Madam,

**Control of Pollution Act 1974  
275- 277 High Road, Benfleet, Essex SS7 5HA**

As you are aware this Service has received complaints from local residents regarding noise disturbance from the construction works currently being undertaken at 275- 277 High Road, Benfleet, Essex SS7 5HA. Noise disturbance is occurring early in the morning, late in the evening and on Sundays.

Following a site visit by myself and Mr Scott Grant on the 18<sup>th</sup> August and a telephone conversation between myself and Mr Ozdemir on the 19<sup>th</sup> August 2016 concerning the matter, I enclose a notice under Section 60 of the Control of Pollution Act 1974 restricting audible building work hours to:

- Monday to Friday- 08.00 to 18.00hrs;
- Saturday- 08.00 to 13.00hrs;
- Sunday and Bank Holidays- no works which are audible beyond the property boundary.

Castle Point Borough Council believes that the above times and requests are those that are reasonable and will cause minimal disturbance to residents.

Failure to comply with this Notice is an offence against Part 3 of the Control of Pollution Act 1974 and on summary conviction will be liable to a fine not exceeding level 5 on the standard scale of fines and altogether, in any case, with a further fine for each day on which the offence continues after conviction.

I must advise that this Service will be regularly monitoring the site, along with the local residents, to ensure that this notice is being complied with. We will not hesitate to instigate further legal proceedings if any breaches are witnessed.

Please note a copy of this letter has been sent to both addresses; 277 High Road, Benfleet and 37 Seaview Road, Canvey Island both to Mr A Ozdemir and CAKA Ltd

Yours faithfully,



**Carla Okiklade**  
Environmental Health Technical Officer  
01268 882491 (Direct line)  
[cokiklade@castlepoint.gov.uk](mailto:cokiklade@castlepoint.gov.uk)



[www.castlepoint.gov.uk](http://www.castlepoint.gov.uk)  
Twitter: @CastlePointBC

**Control of Noise on Construction Sites: Notice Imposing Requirements**

To: CAKA Ltd

Address: 37 Seaview Road, Canvey Island, Essex

Postcode: SS8 7PB

Relating to: 275- 277 High Road, Benfleet, Essex SS7 5HA

Served a true copy of this Notice  
upon CAKA Ltd  
by Carla Okikiole  
this 22<sup>nd</sup> day of

August  
Signed [Signature]  
Put through letter box

It appears to Castle Point Borough Council 'the Council', that works to which section 60 of the Control of Pollution Act 1974 applies namely: construction works which are currently being undertaken at 275- 277 High Road, Benfleet, Essex SS7 5HA.

Take Notice that, under the provisions of the above-mentioned legislation, 'the Council' requires you to comply with the following in connection with the carrying out of such works:

1. **The site may operate without any noise restrictions between the hours of:**
  - a) 08:00 and 18:00 Monday to Friday;
  - b) 08:00 and 13:00 on Saturday.
2. **The site shall not operate at all on Sundays and Public Holidays or outside the hours permitted by this Notice.**
3. **The site may operate from 07:00 Monday to Saturday, but no powered plant or machinery or power tools or activities such as hammering, piling and unloading materials and equipment likely to give rise to impact noise shall be used, operated or carried out externally before 08:00.**
4. **The site shall close at 19:00 Monday to Friday and at 17:00 Saturday, but no powered plant or machinery or power tools or activities such as hammering, piling and unloading materials and equipment likely to give rise to impact noise shall be used, operated or carried out externally after 18:00 Monday to Friday and 13:00 Saturday.**
5. **The best practicable means, as identified in section 72 of the Control of Pollution Act 1974, to reduce noise to a minimum shall be employed at all times.**
6. **All plant and machinery in use shall be properly silenced and maintained in accordance with the manufacturer's instructions.**
7. **It shall not be a breach of this notice where works (In this paragraph called "emergency works") are carried out otherwise than in accordance with the provisions of paragraphs 1 to 6 above where:**
  - (1) **Emergency works on site are urgently and unavoidably necessary in the interests of health and safety or for the preservation of any building structure; and**
  - (2) **It is not practicable to secure health and safety or the preservation of a building structure without doing an act that would, but for paragraph 7 of this Notice be a breach; and**

- (3) Any emergency works carried out pursuant to paragraph 7 of this Notice are limited to the minimum measures immediately necessary; and**  
**(4) Notice in writing justifying in detail the carrying out of emergency works is given to the local authority as soon as it is reasonably practicable after the time it is decided that such emergency works are unavoidable.**

In the event of an appeal this notice shall not be suspended until the appeal has been abandoned or decided by the Court. You may appeal against this Notice to a magistrates' court within 21 days from the date of service.

If you contravene, without reasonable excuse, any requirement of this Notice you will be guilty of an offence against Part III of the Control of Pollution Act 1974 and on summary conviction will be liable to a fine not exceeding level 5 on the Standard Scale of fines together, in any case, with a further fine not exceeding £50 for each day on which the offence continues after conviction.

Signature:



Date: 22<sup>nd</sup> August 2016

Name in capitals: CARLA OKIKIADE

Designation: Environmental Health Technical Officer

Contact address: Environmental Health Services  
Castle Point Borough Council  
Council Offices  
Kiln Road  
Benfleet  
Essex  
SS7 1TF

Email: [EnvironmentalHealth@castlepoint.gov.uk](mailto:EnvironmentalHealth@castlepoint.gov.uk)

Telephone: 01268 882200

## **The Control of Noise (Appeal) Regulations 1975**

### **Appeals under Section 60(7)**

5.-(1) The provisions of this regulation shall apply to an appeal brought by any person under subsection (7) of section 60 (control of noise on construction sites) against a notice served upon him by a local authority under that section.

(2) The grounds on which a person served with such a notice may appeal under the said subsection (7) may include any of the following grounds which are appropriate in the circumstances of the particular case:-

(a) that the notice is not justified by the terms of Section 60;

(b) that there has been some informality, defect or error in, or in connection with, the notice;

(c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the 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 notice are to be complied with is not reasonably sufficient for the purpose;

(e) that the notice should have been served on some person instead of the appellant, being a person who is carrying out, or going to carry out, the works, or is responsible for, or has control over, the carrying out of the works;

(f) that the notice might lawfully have been served on some person in addition to the appellant, being a person who is carrying out, or going to carry out, the works, or is responsible for, or has control over, the carrying out of the works, and that it would have been equitable for it to have been so served;

(g) that the authority have not had regard to some or all of the provisions of Section 60(4).

(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 notice, 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(e) or (f) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of an appeal to which this regulation applies he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises in question.

(5) On the hearing of the appeal the court may—

(a) quash the notice to which the appeal relates, or

(b) vary the notice in favour of the appellant in such manner as it thinks fit, or

(c) dismiss the appeal;

and a notice which 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.

### **Suspension of Notices**

10.-(1) Subject to Paragraph (2) of this regulation, where an appeal is brought against a notice served under Sections 58, 60, or 66 and —

(a) the noise to which the notice relates is noise caused in the course of the performance of some duty imposed by law on the appellant, or

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the notice shall be suspended until the appeal has been abandoned or decided by the court.

(2) A notice to which this regulation applies shall not be suspended if in the opinion of the local authority—

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(i) is injurious to health, or

(ii) is likely to be of a limited duration such that suspension of the notice would render the notice of no practical effect, or

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And the notice includes a statement that it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court.

(3) Save as provided in this regulation a notice under Part III of the Act shall not be suspended by reason only of the bringing of an appeal to a magistrates' court or the Secretary of State.

Date: 22 August 2016

Our Reference:  
16/01096/N\_NCT  
Your Reference:

Mr A Ozdemir  
37 Seaview Road  
Canvey Island  
Essex SS8 7PB

Dear Mr Ozdemir,

**Control of Pollution Act 1974  
275- 277 High Road, Benfleet, Essex SS7 5HA**

As you are aware this Service has received complaints from local residents regarding noise disturbance from the construction works currently being undertaken at 275- 277 High Road, Benfleet, Essex SS7 5HA. Noise disturbance is occurring early in the morning, late in the evening and on Sundays.

Following a site visit by myself and Mr Scott Grant on the 18<sup>th</sup> August and a telephone conversation between myself and Mr Ozdemir on the 19<sup>th</sup> August 2016 concerning the matter, I enclose a notice under Section 60 of the Control of Pollution Act 1974 restricting audible building work hours to:

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I must advise that this Service will be regularly monitoring the site, along with the local residents, to ensure that this notice is being complied with. We will not hesitate to instigate further legal proceedings if any breaches are witnessed.

Please note a copy of this letter has been sent to both addresses; 277 High Road, Benfleet and 37 Seaview Road, Canvey Island both to Mr A Ozdemir and CAKA Ltd

Yours sincerely,



**Carla Okikiade**  
Environmental Health Technical Officer  
01268 882491 (Direct line)  
[cokikiade@castlepoint.gov.uk](mailto:cokikiade@castlepoint.gov.uk)



[www.castlepoint.gov.uk](http://www.castlepoint.gov.uk)  
Twitter: @CastlePointBC



**Control of Noise on Construction Sites: Notice Imposing Requirements**

To: Mr Ahmet Ozdemir

Address: 37 Seaview Road, Canvey Island, Essex

Postcode: SS8 7PB

Relating to: 275- 277 High Road, Benfleet, Essex SS7 5HA.

Served a true copy of this Notice  
upon Mr A. Ozdemir  
by Cerla Okande  
this 30th day of

Signed: [Signature]

Put through letter box

It appears to Castle Point Borough Council 'the Council', that works to which section 60 of the Control of Pollution Act 1974 applies namely: construction works which are currently being undertaken at 275- 277 High Road, Benfleet, Essex SS7 5HA.

Take Notice that, under the provisions of the above-mentioned legislation, 'the Council' requires you to comply with the following in connection with the carrying out of such works:

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261 High Road, Benfleet - The Cherry Leaf – Licensed restaurant of only 32 covers (similar hours)

263 High Road, Benfleet - S R News – Licensed retail only (till 22:00) Opening hours 06:00 to 20:00

265 High Road, Benfleet - Wagtails Pet Shop – opening 08:30 to 17:30

267 High Road, Benfleet - Benfleet Travel – Opening 09:00 to 17:30

269 High Road, Benfleet - Eclipse – retail clothes sale – working day opening only

271 – 273 High Road, Benfleet - Castle opticians – opening 09:00 to 17:30

275-277 High Road, Benfleet - Tasty Bites – Premises in question

279 High Road, Benfleet - From the Heart Card Shop – working day opening only

281 High Road, Benfleet - Greggs – opening 07:00 to 16:00

283 High Road, Benfleet - Santander – opening 09:00 to 17:00

285 High Road, Benfleet - United Trade – retail sales – working day opening only