

From: [Andrew Hill](#)
To: [Yvette Landy](#); [Tania Jardim](#)
Subject: RE: Bulbul Premier Review – Environmental Health Position
Date: 29 June 2026 14:38:06
Attachments: [image002.png](#)
[image004.png](#)

Environmental Health Response – Premises Licence Review Bulbul Express.

Hi Tania,

Thank you for your email.

I have drafted a response outlining Environmental Health's position in relation to this matter for consideration at the forthcoming hearing. Yvette and I have spoken about this case as Yvette is currently dealing with a Freedom of Information Request relating to the historical investigation.

Our response is below:

The representation before Members relates to allegations concerning noise and associated disturbance arising from equipment at the premises. The applicant has specifically identified concerns relating to high-capacity extractor systems, refrigeration condensers, mechanical ventilation units, and associated vibration-generating equipment.

Mrs Jardim, on behalf of the Licensing Authority, sought advice from Environmental Health, and the matter has been carefully considered by an Environmental Health Officer with reference to the relevant legislative framework.

It is important to clarify that, whilst the Licensing Act 2003 includes the prevention of public nuisance as a licensing objective, the issues raised in this case—namely the operation, condition, or alleged defect of mechanical plant and equipment—are not, in themselves, matters most appropriately addressed through the licensing regime. These matters fall primarily within the scope of the Environmental Protection Act 1990.

The Environmental Protection Act 1990 provides the specific statutory framework for investigating and determining whether a statutory nuisance exists, including noise and vibration arising from plant, machinery, and equipment such as that described above. Under this legislation, the Council must investigate and assess whether the legal threshold for statutory nuisance is met based on current conditions, supported by robust and contemporaneous evidence. Where that threshold is satisfied, appropriate enforcement action, such as the service of an abatement notice, may be taken.

In this case, the matter was previously investigated by Environmental Health between 2018 and 2021. The Local Government and Social Care Ombudsman subsequently reviewed the Council's handling of the complaint and found that the Council took reasonable and proportionate steps to investigate, including site visits and attempts at monitoring, and that the evidence available at the time did not establish the existence of a statutory nuisance.

A further allegation has now been made in relation to noise and disturbance arising from the equipment identified above. Environmental Health has therefore strongly encouraged Mr Rush to provide noise and odour logs to then determine whether additional monitoring should take place. However, it is understood that the resident has not yet completed or returned the diary sheets or agreed to facilitate any additional monitoring. In the absence up-to-date diary records or objective evidence, the Council is not in a position to determine whether a statutory nuisance currently exists, nor to take enforcement action under the Environmental Protection Act 1990.

In accordance with BCP Councils procedure for investigating Statutory Noise Nuisance: [How we investigate commercial noise complaints | BCP](#) we are unable to progress to the next stage of the investigation without return of the completed diary sheets.

Members should therefore be aware that:

- The appropriate regulatory framework for investigating the issues raised is the Environmental Protection Act 1990;
- There is no current evidential basis establishing the existence of a statutory nuisance.
- Noise and odour logs have been sent to the complainant to complete with up-to-date information on the current situation and how they are being affected. At the time of writing this email these logs have not been returned.
- Any further investigation cannot proceed without appropriate access to obtain contemporaneous evidence should the returned noise and odour logs demonstrate the need for further investigation.
- During 2018 – 2021 when officers visited, there was no evidence of excessive noise and vibration or fumes.
- No additional information was provided in 2023 & 2024 in relation to the alleged changes in the plant and or equipment which would warrant any further investigation under the Environmental Protection Act 1990.
- The Licensing Act 2003 is not intended to duplicate or replace the specific statutory regime provided by environmental protection legislation such as the Environmental Protection Act 1990 and this remains the primary legislation to be used when dealing with such matters

It is also important to note that, even if the Licensing Committee were minded to vary the conditions on the premises licence, such action would relate only to licensable activities which is the sale of alcohol . The premises could still lawfully operate for other purposes, including the preparation and storage of food, and the associated plant and equipment—such as extraction and refrigeration systems—would likely continue to be in use. As such, any changes to the licence would not address the underlying issue being alleged.

In light of the above, it is Environmental Health's position that, on the evidence currently available, the matters raised do not demonstrate that the operation of the premises is undermining the licensing objective of the prevention of public nuisance to the extent that would justify review action under the Licensing Act 2003 and therefore have no justification for attending the hearing regarding the review of the premises license.

Kind regards,



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