

**Premises Licence Application: Delaneys 77B Castle Road**

**Representation from Regulatory Services**

**Richard Maidment**

**Principal Regulatory Services Officer**

1. Description of the premises

- 1.1. Having reviewed the planning history for the premises the ground floor was originally a shop with residential accommodation located at first and second floor. There was a subsequent change of use for the ground floor to a sandwich bar / café, which at some point resulted in the installation of a mezzanine floor within the premises to provide further seating area. See figure 1.
- 1.2. The first floor flats share a separating floor with the mezzanine trading area of the venue and as the building is a late Victorian / Edwardian structure, sound insulation between the two uses is likely to be poor, probably no more than a single layer of plasterboard, similar to that between ground and first floor within a domestic house.
- 1.3. Any improvements to the sound insulation of this ceiling are likely to be impractical due to the insufficient available headroom as a result of the mezzanine floor (ceiling would need to be dropped by a minimum 150mm to install an acoustic ceiling).

2. Potential problems with licensed Premises

- 2.1. There are always concerns with any application involving licensed premises being structurally attached to residential dwellings, especially when introducing licensed premises below existing residential dwellings, as the residents would have taken the premises on the understanding that they were living above a shop / café as opposed to a licensed premises.
- 2.2. The only technical guidance we have regarding noise issues related to licensed Premises has been issued by The Institute of Acoustics in their Good Practice Guide on the Control of Noise from Pubs and Clubs which states "Extreme caution should be exercised in permitting developments that result in pubs and clubs and other similar establishments being structurally attached to noise sensitive properties. Such development should not be permitted without it being clearly demonstrated that acceptable noise levels can be achieved and maintained at and within the noise sensitive properties"
- 2.3. Whereas we would have once taken a more relaxed view to restaurants, experience has taught us that there appears to be a very blurred line in planning and licensing terms between drinking establishments and restaurants and we are increasingly being forced to

use statutory nuisance legislation to try and resolve issues associated with noise due to exuberant behaviour of customers within the trading area.

- 2.4. Modern bars tend to be minimalist reverberant spaces full of hard surfaces and furniture, So when the venue nears capacity, noise levels increase as people compete to be heard which in turn leads to an increase background music levels to compensate for this, further exacerbating the problem.
- 2.5. Scraping and impact of chairs on hard floor surfaces is also a problem, which travels via the structure and is likely to be an issue in this case owing to the proximity of the mezzanine floor to the separating ceiling. At similar establishments this has become a particular problem after closing time when the venue is being cleared up at the end of the night.
- 2.6. Due to the smoking ban customers inevitably congregate outside the premises throughout the evening and there is inevitably some element of rowdy and exuberant behaviour. Castle Road is a particularly narrow street this is therefore it is likely to impact upon a number of residential dwellings both above and directly opposite the venue (see figure 2).
- 2.7. In the interest of full disclosure my original objection referred to potential issues with the outdoor seating area, further enquiries have revealed that the outdoor area actually closes at 18:00hrs rather than 21:00hrs therefore this is no longer a principal concern.
- 2.8. Probably one of the biggest problems we have is due to the introduction of the Live Music Act which gives any licensed premises the right to have live or recorded music on the premises until 23:00hrs as a right. In the past we could have restricted the premises to serve alcohol only however this is no longer an option.
- 2.9. There is a very similar venue located within 30 metres which is also a restaurant and is continually the subject of noise complaints due to performances of live bands and screaming / shouting from customers smoking in the doorway, this has resulted in noise abatement notices being served for loud music but we are still receiving complaints. The most recent being received in August 2020, relating to customers singing and yelling outside the bar.
- 2.10. This proposed change of operation to a restaurant is also likely to require a kitchen extraction system in order to prevent potential public nuisance due to cooking odours.
- 2.11. This will most probably require a discharge point at roof level and further noise mitigation measures due to the operation of mechanical plant. I would therefore suggest it would make sense to obtain the appropriate planning permissions first before a premises licence is granted to ensure the installation of the plant is technically feasible and will comply with any planning restrictions.

3. Application

3.1. The proposed operating schedule within Part M of the application document, does not give me any confidence that the prevention of public nuisance has been fully considered or mitigated, it only states they will join Pub Watch and keep music low after 22:00hrs.

3.2. Guidance issued under section 182 of The Licensing Act regarding Applications for Premises Licences states:

- Applicants are expected to include positive proposals in their application on how they will manage any potential risks.
- For example premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective.
- While applicants are not required to seek the views of responsible authorities before submitting their application they may find them to be a useful source of expert advice that should be taken into consideration when making an application and Licensing Authorities may encourage co-operation BEFORE applications are submitted in order to minimise the scope for disputes.

4. Summary

4.1. In summary I have concerns that as the premises are structurally attached and in close proximity to residential dwellings, there is potential for public nuisance due to:

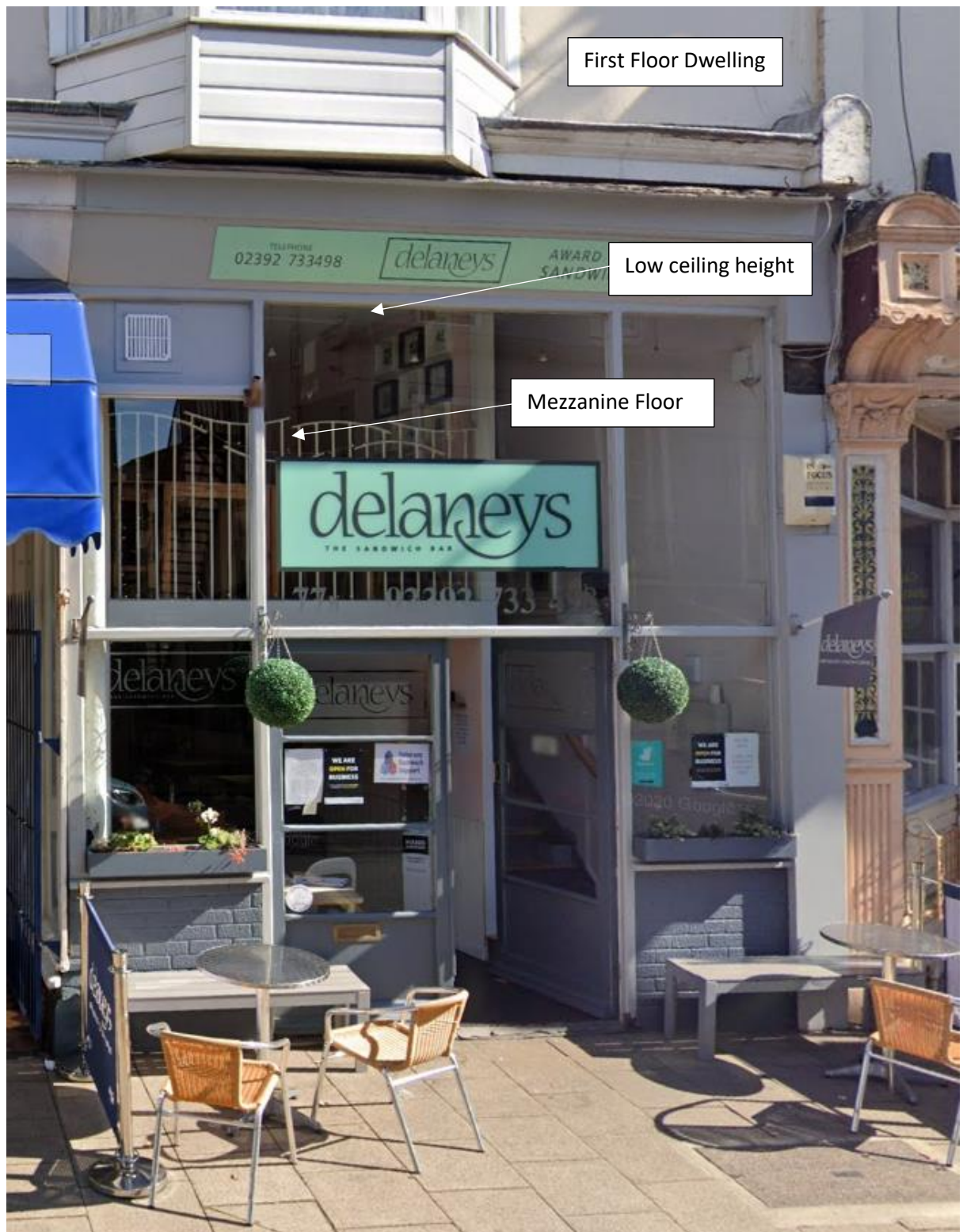
- Noise from customers inside and outside the venue.
- The performance of live and recorded music within the venue.
- Cooking odours from the operation of a commercial kitchen.

4.2. Although the applicant may have no intention of using their rights under the Live Music Act to stage entertainment this may change in the future, particularly if the business is sold on to another operator and the objective of the Licensing Act is to PREVENT public nuisance.

4.3. Overall the information submitted with the application has failed to convince me that the potential impacts associated with the operation have been considered and sufficiently mitigated therefore I am unable to support the application as it stands.

5<sup>th</sup> January 2021

Figure 1: Front Facade of Premises



5<sup>th</sup> January 2021

Figure 2: Street View

