



## Licensing Authority – Representation

Premises Name	Premises Address
Pizza & Grill Bros	66-68 Butt Road, Colchester

### Licensing Objectives affected

Failure to address the requirements of the Policy will undermine the following licensing objectives –

- Prevention of public nuisance

### Licensing Authority Representation

The Licensing Authority objects to this application on the following grounds –

- It is contrary to the Council Borough Council Statement of Licensing Policy 2016-2021 in relation to hours of operation.
- The application does not demonstrate exceptional circumstances that would justify a departure from the current Policy, and more particularly, there are no measures listed in the operating schedule to mitigate against possible harm.
- Failure to address the requirements of the policy will result in the licensing objectives of the prevention of public nuisance being undermined.

### Policy References

#### Key factors

*We will ensure that due consideration is given to the proximity of licensed premises not only to local residents and businesses, but also in relation to other licensed premises to ensure they are located in a position that does not adversely affect their ability to ensure the promotion of the licensing objectives.*

#### Key Factor 2 - The location of licensed premises

3.18 There is a need to balance the needs of residents with that of the night time economy. Licensees should consider how their premises could impact upon the needs of local residents and businesses. Particular consideration is expected to be given to:

- Prevention of noise or vibration escaping from the premises due to volume of music or plant and machinery noise.
- Prevention of noise disturbance from people entering and leaving the premises (e.g. queue management, dispersal policy)

- Prevention of disturbance by people outside the premises (e.g. smoking areas)
- Litter from the premises (this issue is particularly relevant in respect of late night takeaways and smoking related litter outside of licensed premises)
- Disturbance caused by deliveries and collections at the premises including waste and bottle collection



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## Consultation Response

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**Environmental Protection Officer:** Guy Milham

**Licensing Reference No:** 091567

**Ward:** New Town & Christ Church

**Location:** Pizza & Grill Bros 66-68 Butt Road, Colchester, CO3 3DA

**Details:** Premises Licence Application

**Scheduled Response Date:**

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### Environmental Protection's Comments: -

*The following comments are made in respect of the "Prevention of Public Nuisance" licensing objective*

We wish to object to this application as we have concerns regarding the potential for public nuisance for the following reasons:

- Extending the opening hours of the business until 2 and 3am in an area that has a significant number of residential properties in close proximity to the premises will increase the potential for disturbance from customers very late at night when residents will be expecting to sleep. As the dominant noise source (traffic on Butt Road) reduces the background noise level will decrease and any noise generated by the premises will become more noticeable.
- The odour extraction plant is located at the rear of the premises just a few metres away from several residential properties. Late at night when ambient noise levels decrease noise from the plant will become more audible and have the potential to cause a nuisance during recognised sleep hours. The area behind the premises is partially enclosed by surrounding buildings leading to a reverberant environment that is likely to exacerbate noise levels.

**Signed:** Guy Milham  
**Environmental Protection Officer**

**Date:** 09/05/2017

**ENVIRONMENTAL PROTECTION OBJECTION  
TO PREMISES LICENCE APPLICATION 091567:**

**PIZZA & GRILL BROS.,  
66-68 BUTT ROAD, COLCHESTER:  
EXTENSION OF OPENING HOURS**



**Prepared by: G Milham, BSc (Hons).**

**Report date: 22 May 2017**

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## **1. Introduction**

- 1.1** The Environmental Protection team has been consulted by the Colchester Borough Council Food, Safety and Licensing team with regard to the prevention of public nuisance licensing objective for Premises Licence application 091567.
- 1.2** Application 091567 seeks to increase the hours of operation for Pizza & Grill Bros. in Butt Road, Colchester, from the current 11pm until 2am Sunday to Thursday and 3am Friday and Saturday.
- 1.3** The purpose of this report is to examine the grounds for objection with regard to the prevention of public nuisance licensing objective, i.e. the potential impact of the application on residents with regard to noise.

## **2.0 Background**

- 2.1** Pizza & Grill Bros. is a takeaway located at 66-68 Butt Road, Colchester. We understand that it currently closes at 11pm every day.
- 2.2** A noise complaint was received by the Environmental Protection team at the end of 2001. This was regarding noise from the odour extraction plant causing a statutory nuisance to a resident located behind the premises, then known as the Balti House restaurant. It was resolved informally by noise attenuation measures carried out by the proprietor. At the time of the complaint the premises was not open as late as 2 or 3am, so noise assessments were conducted earlier in the evening and during the day.

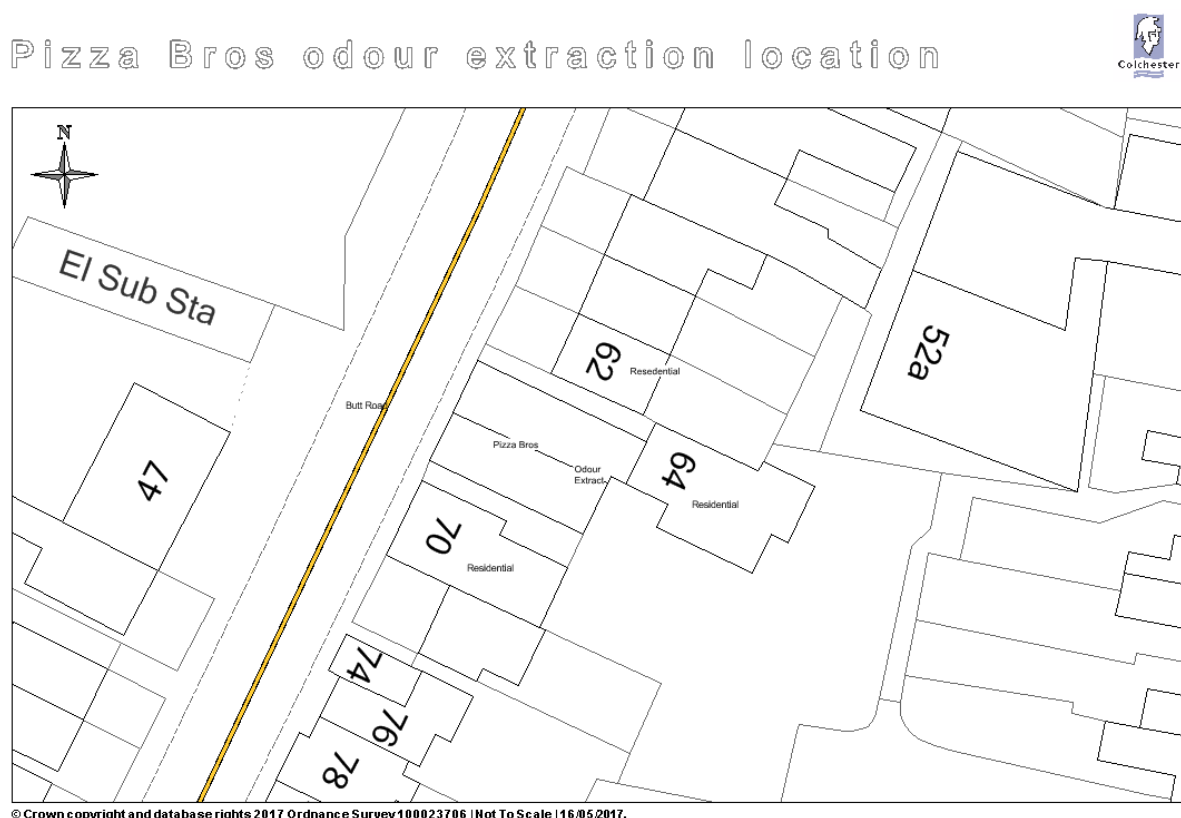
## **3.0 The current application**

- 3.1** Application 091567 seeks to increase the hours of operation for Pizza & Grill Bros. from the current 11pm until 2am Sunday to Thursday and 3am Friday and Saturday.
- 3.2** As a result of the application some on-site noise monitoring was conducted by officers from the Council's Weekend Noise Service on 20 May 2017 in order to obtain measurements of the noise levels when the odour extraction plant was running and switched off.
- 3.3** The Environmental Protection team are concerned that the significant extension to late-night operating hours will increase the potential for public nuisance to nearby residents caused by noise from the odour extraction plant and customers when background noise levels decrease.

## 4.0 Site description

4.1 The location of the site is shown in Figure 1.

**Figure 1: Site location and surrounding residential properties**



The site is located in Butt Road, Colchester. This part of Butt road comprises a mix of residential properties, including a row of terraced Victorian properties between the application site and the beginning of Butt Road to the north. There is some business use in the immediate vicinity which is mainly office-based, with a firm of accountants immediately to the south and surveyors opposite. No other businesses in the immediate vicinity are open late.

- 4.2 When looking at Figure 1, the property immediately adjacent to the north (62) is residential, as is the property to the north set back from Butt Road (64). There is also a residential unit immediately adjacent to the south side of the site, located to the rear of the accountants at 70. We also understand that an HMO is located above the application premises.
- 4.3 The odour extraction plant is located on a flat-roofed extension to the rear of the premises, just 4 metres from the nearest residential property to the rear (64) and

approximately 5-6 metres from the residential properties to each side (62 and 70).

## 5.0 Standards, guidance and criteria

**5.1** British Standard 8233:1999 provides noise levels for living areas and bedrooms within dwellings and is based on advice contained in a draft of the World Health Organisation (WHO) 1999 document '*Guidelines for Community Noise*'. Night is considered to be between 11pm and 7am.

**5.2** The current WHO guidance provides the guideline values summarised in the following table:

**Table 1: WHO Guideline Values (the bold section applies to night-time noise)**

Value	Guidance	Location
$L_{AeqT} = 55 \text{ dB}$	Few seriously annoyed, daytime and evening	Continuous noise, outdoor living areas
$L_{AeqT} = 50 \text{ dB}$	Few moderately annoyed, daytime and evening	Continuous noise, outdoor living areas
$L_{AeqT} = 35 \text{ dB}$	Acceptable level to avoid speech interference, daytime and evening	Continuous noise, dwellings indoors
<b><math>L_{AeqT} = 45 \text{ dB}</math></b>	<b>To avoid sleep disturbance, window open at night</b>	<b>Continuous noise, outside bedrooms, outdoor values</b>
<b><math>L_{AeqT} = 30 \text{ dB}</math></b>	<b>To avoid sleep disturbance at night</b>	<b>Continuous noise, bedrooms, indoors</b>
$L_{AMAX} = 60 \text{ dB}$	To avoid sleep disturbance, window open at night	Noise peaks, outside bedrooms. Outdoor values
<b><math>L_{AMAX} = 45 \text{ dB}</math></b>	<b>To avoid sleep disturbance at night</b>	<b>Noise peaks, bedrooms, indoors</b>

**5.3** The WHO also produced a document Night Noise Guidelines for Europe 2009 which shows that average noise attenuation through a partially open window is 21dB.

**5.4** British Standard 4142:2014 is used to assess the potential impact of noise from industrial/commercial plant and activities on residents. It compares the noise produced by the activity in question against the background noise levels.



## **6.0 Noise assessment**

- 6.1** Noise measurements were taken at the application site on the night of 20 May 2017. Monitoring took place with the odour extraction plant both on (21:29-21:46) and off (23:49-00:01) in order to assess its impact against background noise levels.
- 6.2** Monitoring took place in mild and dry conditions with no wind.
- 6.3** Measurements were undertaken with:
- Norsonic 118 type1 sound level meter (SLM) (serial no. 31354)  
CEL 284 acoustic calibrator (serial no. 3\_03818909)  
The SLM was calibrated before each measurement session.
- 6.4** Assessment was from the rear of the premises at the top of a flight of steps beside number 70, 2.1 metres from the façade of number 70 (see Figure 1).
- 6.5** In addition to measurements with a SLM we considered it was equally important to subjectively assess the noise in person to determine its character and level of intrusiveness.

## **7.0 Assessment results**

### **Measured levels**

- 7.1** With the odour extraction plant operating the average noise level was:
- Laeq (the continuous sound level over a period of time. Best thought of as the average energy level the noise level averaged over the measurement period):  
65.0dBA.
- 7.2** With the odour extraction plant switched off the average noise level was:
- Laeq (the continuous sound level over a period of time. Best thought of as the average energy level):  
59.0dBA.  
La90 (the background noise level with the loudest 10% of noise excluded):  
45.0dBA.

### **Subjective assessment of plant noise**

- 7.3** With the extraction plant switched on the overwhelming noise to the rear of the premises was from the odour extraction fan.

### **Background noise**

- 7.4** Background noise is dominated by traffic on Butt Road when the extraction plant is switched off. This will decrease in relation to reduced traffic flow late at night.
- 7.5** Despite being located on a busy road, the area around the properties to the rear of the premises is partially screened from Butt Road and is relatively quiet.

## 8.0 Public nuisance and impact on residents

### Explanation of noise levels and effect

- 8.1 To fully appreciate the noise levels measured a simple explanation of the decibel scale is useful. Typical noise levels from various sources are shown in Figure 2.

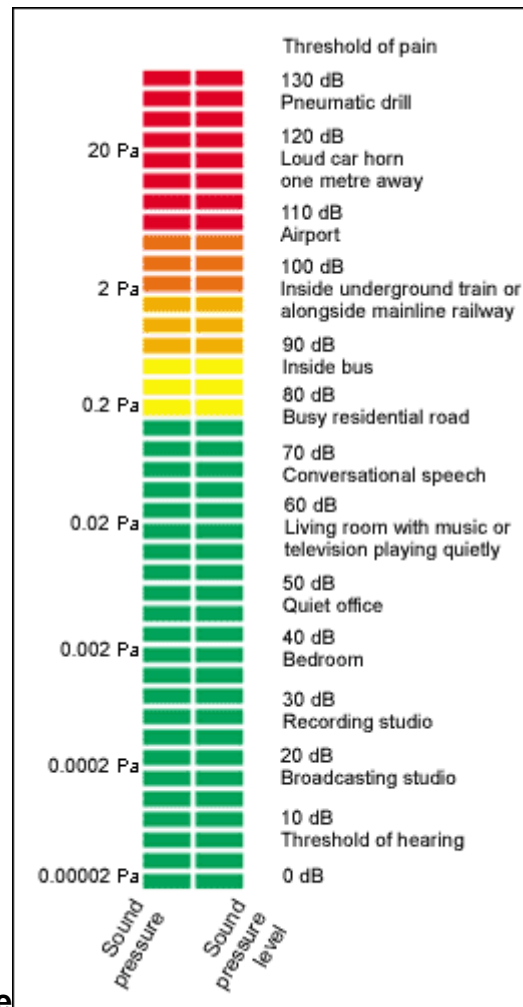


Figure 2: The decibel scale

It is important to understand that the decibel scale is a logarithmic one, which compresses sound pressure values that would otherwise be too wide ranging and inconveniently large. Therefore, whereas a value of 110 dB for an airport is numerically 10 dB (or 10%) higher than 100 dB inside an underground train, in acoustic terms the difference is actually perceived as a doubling of the noise. Therefore small increases in decibel levels can be significant.

## **Impact of the noise from the odour extraction plant**

- 8.2** As can be seen in Figure 1, the odour extraction plant is located on a flat-roofed extension to the rear of the premises at relatively low level. It is just 4 metres from the nearest residential property (64) (excluding the residential flat above the application premises) and 5-6 metres from two other adjacent properties (62 and 70).
- 8.3** A previous complaint indicates that this plant has the potential to cause a nuisance to nearby residents.
- 8.4** To the rear of the premises the area is partially enclosed by a number of buildings, forming a reverberant area that will amplify sound.
- 8.5** The dominant source of noise in the area is traffic on Butt Road when the odour extraction plant is switched off. The extraction fan is the dominant noise to the rear of the premises when operating, even earlier in the evening around 9:30pm. Late at night the traffic noise will significantly reduce causing a decrease in background noise levels, making the fan noise even more noticeable.
- 8.6** The proposed opening hours until 2 and 3am will mean that the extraction fan operates until literally the middle of the night when residents will expect to sleep undisturbed.
- 8.7** Measurements have shown that noise from the plant is 65dBA outside of residential property. If an average annual sound attenuation of 20dB is allowed for a partially open bedroom window, this equates to an internal noise level of 45dBA. This is 15dBA in excess of the WHO/BS8233 guidance for 'good' sleeping conditions and likely to disturb sleep. Residents would have to have double-glazed windows closed in order to achieve recommended internal noise levels within bedrooms.
- 8.8** According to the current version of BS4142 the plant noise rating level is +23dB, a level likely to be an indication of significant adverse impact if operated until the proposed hours when background noise has reduced.

## **Impact of noise from customers**

- 8.9** Although the application states that signs will be displayed asking customers to be quiet, it is likely that at the opening hours proposed a proportion of the customers will be intoxicated and, having been in noisy clubs and bars, will have a tendency to shout in the street outside.
- 8.10** The noise level of an adult shouting is approximately 88dBA. Allowing a distance attenuation to the upstairs window of the property immediately adjacent to the premises and fronting Butt Road (62), this will equate to a maximum noise level of at least 63dBA outside of the front bedroom. Through a partially open window

this is likely to be close to the WHO recommended 45dBA maximum noise limit inside, and likely to cause sleep disturbance, especially when traffic noise reduces.

- 8.11** At the operating times proposed even the occasional shout from a customer could potentially disturb sleep.

## **9.0 Summary and recommendations**

- 9.1** Recent monitoring has shown that noise levels from the odour extraction plant are likely to cause disturbance to nearby residents when trying to sleep with bedroom windows open after 11pm and will worsen further when background noise levels decrease late at night.
- 9.2** Maximum noise levels from some customers shouting outside the premises will be close to the WHO guidance for the inside of the nearest bedrooms and may disturb sleep, particularly when background noise levels decrease late at night.
- 9.3** We therefore object to this application and any extension of opening hours on the grounds of prevention of public nuisance.

