

STROUD DISTRICT COUNCIL

Council Offices Ebley Mill Stroud Gloucestershire GL5 4UB

Telephone 01453 766321

Facsimile 01453 750932

www.stroud.gov.uk



Your Contact: [REDACTED]

Telephone: 01453 75 [REDACTED]

Email: [REDACTED]

Our Ref: [REDACTED]

[REDACTED]@stroud.gov.uk

30th November 2010

Dear [REDACTED]

Freedom of Information Request

Bottle Green Drinks Co Frogmarsh Mills Frogmarsh Lane South Woodchester Stroud Gloucestershire

Further to your letter to me dated the 13th November 2010 I have attached a copy of the information you requested, namely [REDACTED] noise appraisals and details of how to pursue a problem through the Magistrates' Court.

I have also attached a copy of a letter to you dated 13th July 2007 from [REDACTED] as this explains what the measurements reveal.

I would also remind you that, in accordance with a letter sent to you on the 21st December 2007, you must address all correspondence to [REDACTED], [REDACTED], Stroud District Council.

Yours sincerely



Principal Environmental Health Officer

CC [REDACTED]

For further information relating to these issues please contact:

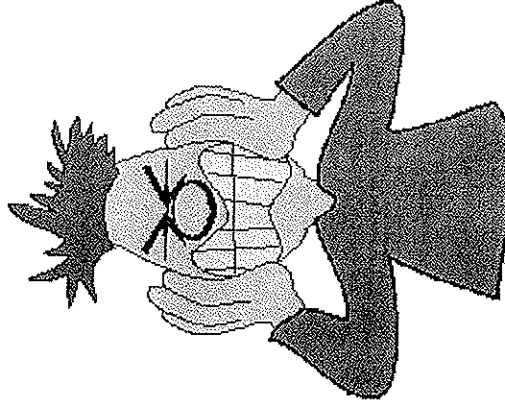
 Environmental Protection Service
Stroud District Council
Ebley Mill
Westward Road
Stroud
Glos
GL5 4UB

(01453) 754478

www.stroud.gov.uk

environmentalhealth@stroud.gov.uk

**Taking Private
Legal Action
Against Noise
Nuisance**



2003-2003
Crime Reduction in Rural Areas
2004-2005
Services for Older People
2007-2008
Emergency Planning



NOISE NUISANCE

On rare occasions, the actions detailed in Stroud District Council's "Noise Nuisance" leaflet may not serve to fully resolve a noise issue to your satisfaction. In such circumstances, you do have the option to pursue your own private legal action.

If noise problems continue to recur, then write to your neighbour detailing your complaints and stating that unless the nuisance stops you will have no alternative but to take legal action.

The legislation that you can use is **section 82** of the **Environmental Protection Act 1990**. Please note the following:-

- Before you can take any legal action, you must advise the person responsible for the noise in writing of your intention to take action through the courts. This must give three clear days notice of your intentions.
- When using this procedure, it is the Magistrates' Court which decides whether a "nuisance" exists.
- For the Court to decide, you must provide good evidence to demonstrate that a nuisance does exist. The Court will, for example, wish to assess how loud and unreasonable the noise in question is and whether it would be likely that an average person would be affected by it. Even if you need particularly quiet conditions, for example due to ill health, the Court can only consider an "average" person.
- You need to be satisfied that you have a **strong** case.

YOUR EVIDENCE

The following list provides examples of the kind of written evidence you should seek to provide:-

- A copy of your letter of intent to take legal proceedings.
- Copies of all letters you have written to the person causing the noise.
- Statements from any neighbours who may be supporting you in your case.
- Statements from any other persons who have witnessed the noise. An example might be Police Officers who have been called to a disturbance (be sure to get their names, numbers and stations).
- A "Diary" of noise nuisance occurrences.

Within those items of evidence you should include the following:-

- The address complained about.
- The name(s) of the person(s) known to be causing the noise.
- The character of the noise, for example loud amplified music, DIY tools, dog barking, etc.
- When and how often the noise occurs.
- The effect the noise has on your living conditions, for example lack of sleep, inability to hear the TV, etc.
- An example of one time when the noise was a particular problem to you.

WHAT TO DO

1. Ring your local Magistrates' Court and arrange a convenient time to visit the Court and take all your evidence with you. The Court for Stroud is:

Stroud Magistrates' Court
Parliament Street
Stroud
Glos
GL5 1ET
Tel: (01452) 420100

2. At the Court you will be questioned by a Magistrates' Clerk who will decide whether to accept your application. You should say that you want to "take out a summons under section 82 of the Environmental Protection Act 1990" and present your evidence.
3. In the Court Office your summons will be typed up, signed by the Magistrates' Clerk and sent to your neighbour.
4. You need to ask the Court to fix a date for the hearing of your case. This will normally be a number of weeks after your application. It would be wise to seek at least 2 hours of Court time for your case to avoid a potential adjournment due to lack of time.
5. On the day of the hearing you should attend and seek to convince the Magistrates that your neighbour is causing a noise nuisance. Try to ensure that any witnesses also attend.

NOTE: You may be eligible for free legal advice - ask at your local Citizens' Advice Bureau for advice.

Remember, if you win the case you may be entitled to claim your costs **but** if you lose you may have to pay those of the defendant.

[REDACTED]

Your Contact : [REDACTED]
Telephone : 01453 75 [REDACTED]
Email : [REDACTED]@stroud.gov.uk
Please Quote : [REDACTED]

13th July 2007

Dear [REDACTED]

Environmental Protection Act 1990- Statutory Noise Nuisance
Bottlegreen Drinks Company, Frogmarsh Mills, South Woodchester, Stroud,
Gloucestershire

I write to inform you of the results of the noise monitoring that has taken place over the past few weeks regarding the generator at Bottlegreen Drinks Company, Frogmarsh Mills.

Monitoring was carried out on a number of mornings at your property between 6.00am and 9.30am in accordance with the principals of British Standard 4142.

To reiterate, BS4142 provides assessment methodologies that assist in determining whether an industrial noise source is likely to be causing a statutory nuisance by assessing the difference between the background noise level and the level of the equipment that is the source of the complaint. The results show that the specific noise level with the generator running was not significantly higher than the background noise level without the generator noise.

For example, on the 11th July 2007 between 6.40am and 6.50am, the background noise level was 48dB and then with the generator running it was 49dB using 5 minute LEQ measurements. On other occasions there was no noticeable difference at all between the background and specific noise readings due to the over-riding noise from traffic on the Bath Road.

Taking into account the results of the monitoring exercise, in conclusion this investigation has determined that the generator is not causing a statutory noise nuisance in accordance with the Environmental Protection Act 1990 due to the lack of impact on the background noise levels in the area and in addition the generator is not running on a daily basis.

This decision does not preclude your right to take private action under section 82 of the Environmental Protection Act 1990 if you feel the noise is affecting the enjoyment of your property however unless this situation changes significantly, environmental health will not be able to assist you further in this matter.

Should you require any further information, please do not hesitate to contact me on the above telephone number.

Yours sincerely

Noise Level Measurement Record.

GENERAL DESCRIPTION OF PROBLEM:

Bottlegreen

DATE: 11th July 07

OFFICER:



JOB NO:

70362

INSTRUMENT:

22

36.

WITHIN CALIBRATION

Y N

WEATHER CONDITIONS:

Dry, cloudy, still

	MEASUREMENT 1	MEASUREMENT 2	MEASUREMENT 3	MEASUREMENT 4
LOCATION NOTES	Stephorne 6.40 Background	Stephorne 6.45. specific	Stephorne 6.50. specific	Stephorne 6.55 Background
PRE - CALIBRATION dB(A)	0.3	0.3	0.3	0.4
MIN L dB(A)	40.2	42.1	43	39.1
MAX L dB(A)	61.8	58.1	54.4	60.3
OVL (%)	0.0%	0.0%	0.0%	0.0%
L90 dB(A)	43	45	44	44
L10 dB(A)	50	51.5	49.5	51
L1 dB(A)	54	54	51.5	54
Leq dB(A)	47.8	49	47.6	48.6
POST-CALIBRATION dB(A)	0.3	0.3	0.4	0.3

FREQUENCY ANALYSIS

	MEASUREMENT 1	MEASUREMENT 2	MEASUREMENT 3	MEASUREMENT 4
LOCATION NOTES				
31.5Hz				
63Hz				
125Hz				
250Hz				
500Hz				
1kHz				
2kHz				
4kHz				
8kHz				
16kHz				

SIGNATURE OF OFFICER: _____

Noise Level Measurement Record.

GENERAL DESCRIPTION OF PROBLEM: Bottlegreen Specific.

DATE: 13/6/07 OFFICER: [REDACTED] JOB NO: _____

INSTRUMENT: Bruel & Kjaer 2236 WITHIN CALIBRATION Y N

WEATHER CONDITIONS: Dry, overcast 0.0m/s

	MEASUREMENT 1	MEASUREMENT 2	MEASUREMENT 3	MEASUREMENT 4	
LOCATION NOTES	5mins 6.30am ⑥	5mins 6.40am ⑦	5mins 6.49am ⑧	1 hour 7-8am ⑨	1 hour 8-9am ⑩
PRE-CALIBRATION dB(A)	0.3	0.3	0.3	0.3	0.3
MIN L dB(A)	42.3	43.8	43.9	42.9	45.6
MAX L dB(A)	52.6	55.6	62.2	64.6	70.3
OVL (%)	0.0%	0.0%	0.0%	0.0%	0.0%
L90 dB(A)	43.5	45.5	45.0	47.0	48.0
L10 dB(A)	49.5	49	51.5	52.0	52.5
L1 dB(A)	51.0	53	56.0	56.5	56.0
Leq dB(A)	47.4	47.9	49.6	50.4	51.1
POST-CALIBRATION dB(A)	0.3	0.3	0.3	0.3	0.3

FREQUENCY ANALYSIS

	MEASUREMENT 1	MEASUREMENT 2	MEASUREMENT 3	MEASUREMENT 4
LOCATION NOTES				
31.5Hz				
63Hz				
125Hz				
250Hz				
500Hz				
1kHz				
2kHz				
4kHz				
8kHz				
16kHz				

SIGNATURE OF OFFICER: _____

Noise Level Measurement Record.

GENERAL DESCRIPTION OF PROBLEM:

Bottlegreen Background

DATE: 6/6/07

OFFICER:



JOB NO:

INSTRUMENT:

Bruel & Kjaer 2236

WITHIN CALIBRATION

Y N

WEATHER CONDITIONS:

Dry, overcast, 0.0m/s

	MEASUREMENT 1	MEASUREMENT 2	MEASUREMENT 3	MEASUREMENT 4	
LOCATION NOTES	5 mins 6:30 am ①	5 mins 6:40 am ②	5 mins 6:53 am ③	1 hour 7-8 am ④	1 hour 8-9 am ⑤
PRE-CALIBRATION dB(A)	0.4	0.4	0.4	0.4	0.4
MIN L dB(A)	38.1	40.0	39.0	41.5	42.5.2
MAX L dB(A)	85.8	69.0	64.6	67.9	71.4
OVL (%)	0.0%	0.0%	0.0%	0.0%	0.0%
L90 dB(A)	40.0	42.5	44.5	47.0	48.5
L10 dB(A)	55.5	51.0	52.5	53	53.5
L1 dB(A)	65.0	62.5	58.0	58.5	58.5
Leq dB(A)	55.9	50.8	49.5 50.2	51.3	52.1
POST-CALIBRATION dB(A)	0.4	0.4	0.4	0.4	0.4

FREQUENCY ANALYSIS

	MEASUREMENT 1	MEASUREMENT 2	MEASUREMENT 3	MEASUREMENT 4
LOCATION NOTES				
31.5Hz				
63Hz				
125Hz				
250Hz				
500Hz				
1kHz				
2kHz				
4kHz				
8kHz				
16kHz				

SIGNATURE OF OFFICER: _____