

Licensing Sub-Committee



Please contact: Lauren Gregory

Please email: emma.denny@north-norfolk.gov.uk

Please Direct Dial on: 01263 516108

Tuesday, 1 March 2022

A meeting of the **Licensing Sub-Committee** of North Norfolk District Council will be held in the Council Chamber - Council Offices on **Wednesday, 16 March 2022 at 10.00 am.**

At the discretion of the Chairman, a short break will be taken after the meeting has been running for approximately one and a half hours

Members of the public who wish to speak on an agenda item are requested to arrive at least 15 minutes before the start of the meeting. It will not always be possible to accommodate requests after that time. Further information on the procedure for public speaking can be obtained from Democratic Services, Tel:01263 516010, Email:emma.denny@north-norfolk.gov.uk.

Anyone attending this meeting may take photographs, film or audio-record the proceedings and report on the meeting. Anyone wishing to do so should inform the Chairman. If you are a member of the public and you wish to speak on an item on the agenda, please be aware that you may be filmed or photographed.

Emma Denny
Democratic Services Manager

To: Mr P Fisher, Mrs P Grove-Jones and Mrs G Perry-Warnes

All other Members of the Council for information.

Members of the Management Team, appropriate Officers, Press and Public



**If you have any special requirements in order
to attend this meeting, please let us know in advance**

If you would like any document in large print, audio, Braille, alternative format or in a different language please contact us

Chief Executive: Steve Blatch

Tel 01263 513811 **Fax** 01263 515042 **Minicom** 01263 516005

Email districtcouncil@north-norfolk.gov.uk **Web site** www.north-norfolk.gov.uk

A G E N D A

1. TO RECEIVE APOLOGIES FOR ABSENCE

2. DECLARATIONS OF INTEREST

Members are asked at this stage to declare any interests that they may have in any of the following items on the agenda. The Code of Conduct for Members requires that declarations include the nature of the interest and whether it is a disclosable pecuniary interest.

3. ITEMS OF URGENT BUSINESS

To determine any other items of business which the Chairman decides should be considered as a matter of urgency pursuant to Section 100B(4)(b) of the Local Government Act 1972.

4. APPLICATION FOR A NEW PREMISES LICENCE - LILY-MAI'S BAR GRILL COCKTAILS, NEW STREET, CROMER, NORFOLK, NR27 9HP (Pages 3 - 56)

Summary: This application is to review an existing Premises Licence

Conclusions: That Members consider and determine the case from the written and oral information provided.

Recommendations: That Members consider and determine this case

Cllr P Butikofer –
Chairman Licensing
Committee

Ward(s) affected: Cromer

Contact Officer,
telephone number, and
e-mail:

Lara Clare
01263 516252

lara.clare@north-norfolk.gov.uk

5. EXCLUSION OF PRESS AND PUBLIC

To pass the following resolution:

“That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 1 of Part I of Schedule 12A (as amended) to the Act.”

6. (WK/220001399) - APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLES IN NORTH NORFOLK

Summary: This report relates to an application for a taxi drivers licence where a Disclosure and Barring Service Report has been received which merits further consideration.

Conclusions: Members may wish to go into Private session to hear fully from the applicant and consider this matter in confidence.

Recommendations: That Members consider and determine this application.

Chairman of the Licensing
Committee
Councillor P Bütikofer

Ward(s) affected:
All

Contact Officer, telephone number,
and e-mail:

Lara Clare
Lara.clare@north-norfolk.gov.uk
01263 516252

This page is intentionally left blank

NORTH NORFOLK DISTRICT COUNCIL

Licensing Sub-Committee Hearings

Information to Accompany Notice of Hearing



1. Consequences if the Party does not attend Hearing

- 1) If a party has informed the Authority that he does not intend to attend or be represented at a Hearing, the Hearing may proceed in his absence.
- 2) If a party who has not so indicated fails to attend or be represented at a Hearing the Authority may –
 - a) Where it considers it to be necessary in the public interest, adjourn the Hearing to a specified date, or
 - b) **Hold the Hearing in the party's absence.**
- 3) Where the Authority holds the Hearing in the absence of a party, the Authority shall consider at the Hearing the application, representations or notice made by that party.
- 4) Where the Authority adjourns the Hearing to a specified date it must forthwith notify the parties of the date, time and place to which the Hearing has been adjourned.

2. Procedure to be followed at the Hearing

Please note: before the Hearing begins the Licensing Representative will take the names of everyone attending and find out if they want to speak.

1. The **Chairman** introduces

- a) Himself or herself and the Members of the Committee
- b) The Legal Advisor
- c) The Licensing Representative
- d) The Committee Administrator.

2. The **Legal Advisor**

- a) Introduces the subject of the Hearing
- b) Notes attendances
- c) Outlines the procedure and explains her part in it.
- d) Asks if there are any preliminary matters, such as requests for adjournment.

3. The **Chairman** asks the Licensing Representative to explain the application.

4. The **Licensing Representative** refers the Sub Committee to the report, which they have read beforehand, and updates them on any new information. S/he may call witnesses.

5. The **Licensing Representative** invites questions on the report from all parties (The Applicant, the Objectors, the Board Members and the Legal Advisor)

6. The **Chairman** asks the **Applicant** (or his/her representative) to put forward their case. The Applicant may also call witnesses.

7. The **Chairman** invites questions to the **Applicant** from the Objectors, the Board Members and the Legal Advisor.

8. The **Chairman** invites the **Objectors** to put forward their case.
9. The **Chairman** invites questions to the **Objectors** from the Applicant, the Board Members and the Legal Advisor. Any party may call witnesses or ask questions of the witnesses.

10. Closing Statements

The **Chairman** invites closing statements:

FIRST: Objectors (or Objectors Spokesman)
LAST: Applicant (or his/her representative)

The **Chairman** will ask the Legal Advisor if there is any advice before the Sub-Committee retires.

11. The **Chairman** thanks all those who have spoken and invites the Sub Committee to retire to the Members' Room to make a decision.
12. The **Legal Advisor** accompanies the Sub Committee to provide legal advice and to assist them to formulate their reasons (but does not take part in the making of the decision).
13. The **Sub Committee** makes the decision.
14. The **Sub Committee** returns. The **Chairman** reads out the decision and the reasons for the decision.

Application for a new Premises Licence - Lily-Mai's Bar Grill Cocktails, New Street, Cromer, Norfolk, NR27 9HP

- Summary:** This application is to review an existing Premises Licence
- Conclusions:** That Members consider and determine the case from the written and oral information provided.
- Recommendations:** That Members consider and determine this case

Cllr P Butikofer – Chairman
Licensing Committee

Ward(s) affected: Cromer

Contact Officer, telephone
number, and e-mail:

Lara Clare

01263 516252

lara.clare@north-norfolk.gov.uk

1. Jurisdiction

- 1.1. North Norfolk District Council is the Licensing Authority under the Licensing Act 2003 in respect of Premises licences for the sale of alcohol or regulated entertainment. Where a valid application for a review to a premises licence is received the authority must hold a hearing to consider the case.
- 1.2. The four licensing objectives to be considered when determining the review application are:
- a. the prevention of crime & disorder
 - b. public safety
 - c. the prevention of public nuisance, and
 - d. the protection of children from harm

2. The Application

- 2.1 Environmental Protection at North Norfolk District Council has made an application for a review of an existing Premises Licence. The review application can be seen in **Appendix A**.
- 2.2 The grounds on which the application for a review is made are based on Public Nuisance and relate to:
- A. The playing of amplified music to excessive levels**
 - B. Statutory nuisance witnessed**
 - C. Breach of abatement notice**

2.3 The Premises are used as a restaurant and cocktail bar.

2.4 The current premises licence gives permission to operate as follows:

Licensable activity	Days	Times
Opening Hours	Sunday to Wednesday Thursday to Saturday	10:00 - 01:30 10:00 - 02:30
Films Indoor Sporting Event Live Music Recorded Music Entertainment Similar to E/F/G Dancing	Sunday to Wednesday Thursday to Saturday	10:00 - 01:00 10:00 - 02:00
Sale of Alcohol On Premises Sale of Alcohol Off Premises	Sunday to Wednesday Thursday to Saturday	10:00 - 01:00 10:00 - 02:00
Late Night Refreshment	Sunday to Wednesday Thursday to Saturday	23:00 - 01:30 23:00 - 02:30

3. Conditions

3.1 The premises licence is subject to the following mandatory conditions:

- a. **LIP001** No supply of alcohol may be made under the premises licence, at a time when there is no designated premises supervisor in respect of the premises licence or at a time when the designated premises supervisor does not hold a personal licence, or the personal licence is suspended.
- b. **LIP002** Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- c. **LIP003** Where a premises licence includes the condition that at specified times one or more individuals must be at the premises to carry out a security activity; each such individual must be licensed by the Security Industry Authority.
- d. **LIP004** Where a premises licence authorises the exhibition of films, the admission of children to the exhibition of any film to be restricted in accordance with this section.

e. **LIP006**

- (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

- f. **LIP008** The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

g. **LIP009**

- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or

(b) an ultraviolet feature.

i. **LIP010** The responsible person shall ensure that:

a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –

i) beer or cider: ½ pint;

ii) gin, rum, vodka or whisky: 25ml or 35ml; and

iii) still wine in a glass: 125ml; and

b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

j. **LIP011** A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

3.2 The current licence is subject to the following conditions which are consistent with the operating schedule:

1 **LIPN01** The Licensee/Designated Premises Supervisor shall ensure that no nuisance is caused by noise emanating from the premises or by vibration transmitted through the structure of the premises.

2 **LIPN10** All [external doors/windows] must be kept closed, other than for access and egress, in all rooms when events involving amplified music or speech are taking place.

3 **LIPN14** Prominent, clear notices shall be displayed at all exits requesting customers to respect the needs of local residents and leave the premises and the area quietly.

- 4 **LIPN19** The Designated Premises Supervisor or a nominated representative shall receive and respond to complaints throughout the duration of all noisy events and will have full control at all times over the sound amplification.
- 5 **LIPN20** The Designated Premises Supervisor or a nominated representative shall have full control at all times over the sound amplification equipment to the main stage. The volume shall be adjusted according to the requirements of the Licensing Authority / Responsible Authority.
- 6 **LIPS02** The maximum number of person permitted to use the licensed premises at any one time, including staff, should not exceed:
* When used for dancing (devoid of furniture) - 80 persons.
- 7 **LIPS03** The maximum number of person permitted to use the licensed premises at any one time, including staff, should not exceed:
* When used for functions utilising seating at tables - 80 persons.
- 8 **LIPS04** The maximum number of person permitted to use the licensed premises at any one time, including staff, should not exceed:
* When used for purposes combining dance floor area and seating at table - 80 persons.
- 9 **LIPS54** An appropriately qualified medical practitioner must be present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature.
- 10 **LIPS55** Where a ring is involved, it must be constructed and supported by a competent person and inspected by a competent authority and any material used to form the skirt around the rings is flame-retardant.
- 11 **LIPS56** At wrestling or other entertainments of a similar nature members of the public shall not occupy any seat within 2.5 metres of the ring.
- 12 **LIH007** An additional hour applies for licensable activities including Live Music, Recorded Music, Performance of Dance, Provision of Facilities for Making Music, Provision of Facilities for Dancing, Late Night Refreshment, and Supply of Alcohol, for the following:
 - a) New Year's Day (1 January);
 - b) Burns Night (no set date);

- c) St Valentine's Day (14 February);
- d) St David's Day (1 March);
- e) St Patrick's Day (17 March);
- f) Easter (no set date) - Good Friday to Easter Monday inclusive;
- g) St George's Day (23 April);
- h) May Bank Holiday (no set date) - Friday to Monday inclusive;
- i) Spring Bank Holiday (no set date) - Friday to Monday inclusive;
- j) Late Summer Bank Holiday (no set date) - Friday to Monday inclusive;
- k) Carnival weekend (no set date) - Friday to Sunday inclusive;
- l) St Andrew's Day (30 November);
- m) Christmas (24 December to 26 December);
- n) Additional Christmas days (27 December to 28 December)

4. Representations from Responsible Authorities

- 4.1 Section 13(4) of the Act defines the 'Responsible Authorities' as the statutory bodies that must be sent copies of an application. Representations made must relate to the licensing objectives.
- 4.2 The following comments have been received from the Responsible Authorities and can be seen in **Appendix B**:

Responsible Authority	Comments	Date
Fire	No Objection	18/01/2022
Home Office(Immigration Enforcement)	Accepted	19/01/2022
Primary Care Trust, N C C	Nil Response	
Trading Standards Service	Nil Response	
Commercial NNDC	Nil Response	
Licensing, NNDC	No objection to review	15/02/2022
Norfolk Safeguarding Children's Board	Nil Respone	
Councillors	Nil Response	
Licensing Team Norfolk Constabulary	Review Supported	27/01/2022

5. Representations from Other Persons

- 5.1 Section 13(3) of the Act describes interested parties as local residents/businesses (or their representatives) who live/are involved in a business in the vicinity of the premises. Representations made must relate to the licensing objectives.
- 5.2 There has been representations received from other interested parties concerning this review. The predominant relevant issue raised has been that of prevention of public nuisance. See the table below and **Appendix C**.

Representations from Other Persons

Name	Representation	Date	Relevant
Redacted Complainant	Noise/Disturbance	08/02/2022	Yes
Muscroft	Noise/Disturbance	09/02/2022	Yes

6. Notices

- 6.1 The authority is responsible for advertising the review by way of a notice at the premises for not less than 28 consecutive days, on the council website and in the council offices. The Public Notice was displayed on the premises until 15 February 2022.

7. Plans

- 7.1 A location plan showing the general location of the premises is attached at **Appendix D**.

8. North Norfolk District Council Licensing Policy

- 8.1 The current Statement of Licensing Policy was approved by Council on 17 November 2021 and became effective on 31 January 2022 and the following extracts may be relevant to this application:

3.0 Main Principles

3.1 Nothing in the 'Statement of Policy' will:

- undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, and/or
- override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act

3.2 Licensing is about regulating licensable activities on licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act, and conditions that are attached to licences, certificates will be focused on matters which are within the control of individual licensee or club, i.e. the premises and its vicinity.

3.3 Whether or not incidents can be regarded as being 'in the vicinity' of licensed premises is a question of fact and will depend on the particular circumstances of the case. In dispute, the question will ultimately be decided by the courts. When considering these conditions, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

3.4 Whether or not incidents can be regarded as being "in the vicinity" of licensed premises is a question of fact and will depend on the particular circumstances of the case. In cases of dispute, the question will ultimately be decided by the courts. The Council, in addressing this matter, will primarily focus on the direct impact of the activities taking

place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

3.5 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy throughout the district.

3.6 The Council acknowledges that the licensing function cannot be used for the general control of anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. In this respect, the Council recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:

- 3.7
- planning and environmental health controls
 - CCTV
 - ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council Departments
 - to designate parts of the District as places where alcohol may not be consumed publicly
 - regular liaison with Police on law enforcement issues regarding disorder and anti-social behaviour, including the issue of fixed penalty notices, prosecution of those selling alcohol to people who are drunk; confiscation of alcohol from adults and children in designated areas and instantly closing down licensed premises or temporary events on the grounds of disorder, or likelihood of disorder or excessive noise from the premises
 - the power of the police, other responsible authority or a local resident or business or District Councillor to seek a review of the licence or certificate

4 Crime and Disorder

4.1 The Council acknowledges that the Police are the main source of advice on crime and disorder.

4.2 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems. The Council will expect Operating Schedules to satisfactorily address these issues

from the design of the premises through to the daily operation of the business.

4.4 In addition to the requirements for the Council to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in North Norfolk's District. The Local Authority also acknowledges powers contained within the Violent Crime Reduction Act 2006.

4.5 The Council will consider attaching Conditions to licences and permissions to deter and prevent crime and disorder both inside and immediately outside the premises, and these may include Conditions drawn from the Model Pool of Conditions relating to Crime and Disorder.

5 Public Safety

5.1 Licence holders have a responsibility to ensure the safety of those using their premises, as part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety included the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning.

5.2 A number of matters should be considered in relation to public safety, these could include;

- Fire safety
- Ensuring appropriate access for emergency services such as ambulances
- Good communication with local authorities and emergency services
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits
- Ensuring the safety of people when leaving the premises (for example through the provision of information on late-night transportation)
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles
- Ensuring appropriate limits on the maximum capacity of the premises; and
- Considering the use of CCTV

5.3 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. The Council expects applicants to consider, when making

their application, which steps it is appropriate to take to promote the public safety objective and demonstrate how they will achieve that.

5.5 The Council will consider attaching Conditions to licences and permissions to promote safety, and these may include Conditions drawn from the Model Pool of Conditions relating to 'Public Safety'

6 Prevention of Public Nuisance

6.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.

6.2 The concerns mainly relate to noise nuisance, light pollution and noxious smells and due regard will be taken of the impact these may have. The Council will expect Operating Schedules to satisfactorily address these issues. Applicants are advised to seek advice from the Council's Environmental Protection Service before preparing their plans and Schedules. The Council expects operating schedules to satisfactorily address these issues, as appropriate.

6.3 The Council will consider attaching Conditions to licences and permissions to prevent public nuisance, and these may include Conditions drawn from the Model Pool of Conditions relating to 'Public Nuisance'.

7 Prevention of Harm to Children

7.1 The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment.

7.2 The 2003 Act makes it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a temporary event notice.

7.3 In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate or temporary event notice. Outside of these hours, the offence does not prevent the admission of unaccompanied children under 16 to the wide variety of premises where the consumption of alcohol is not the exclusive or primary activity. Between 5am and midnight the offence

would not necessarily apply to many restaurants, hotels, cinemas and even many pubs where the main business activity is the consumption of both food and drink. This does not mean that children should automatically be admitted to such premises and the following paragraphs are therefore of great importance notwithstanding the new offences created by the 2003 Act. (See the Licensing Policy for further detail)

10 Standard Conditions

10.1 The Council will not impose conditions unless it has received a representation from a responsible authority, such as the police, environmental health officer or other persons, such as a local resident or local business, which is a relevant representation, or is offered in the applicants Operating Schedule. Any conditions will be proportional and appropriate to achieve the Licensing Objectives

11 Enforcement

11.1 Once licensed, it is essential premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the 2003 Act and the Council will make arrangements to monitor premises and take appropriate enforcement action to ensure this.

11.2 The Council has an enforcement protocol, agreed with all seven Norfolk Local Authorities, Norfolk Constabulary, Norfolk Fire Service, Customs and Excise and Trading Standards. This should provide for a more efficient deployment of staff and police officers who are commonly engaged in enforcing licensing law and inspection of licensed premises. These protocols will provide for the targeting of agreed problem and high-risk premises, but with a lighter touch being applied to those premises, which are shown to be well managed and maintained.

11.3 All enforcement actions taken by the Council will comply with the Councils Enforcement Policy and the Enforcement Concordat, which the Council has adopted. To this end the key principles of consistency, transparency and proportionality will be maintained.

11.4 A closure power is provided for in the Anti-Social Behaviour, Crime and Policing Act 2014 which replaces section 161 of the Act. This new closure power can be used to protect victims and communities by quickly closing premises that are causing nuisance or disorder. Further guidance on this power can be found on the gov.uk website, under the Anti-Social Behaviour, Crime and Policing Act: anti-social behaviour guidance.

9. Guidance Issued under section 182 of the Licensing Act 2003

9.1 The current Guidance was issued by the Home Office in April 2018 and offers advice to Licensing authorities on the discharge of their functions under the Licensing Act 2003.

9.2 The following extracts may be relevant to this application and assist the panel:

Licensing conditions – general principles

1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will”, is encouraged. Licence conditions:

- must be appropriate for the promotion of the licensing objectives;
- must be precise and enforceable;
- must be unambiguous and clear in what they intend to achieve;
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- must be tailored to the individual type, location and characteristics of the premises and events concerned;
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- should not replicate offences set out in the 2003 Act or other legislation;
- should be proportionate, justifiable and be capable of being met,
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format.

Each application on its own merits

1.17 Each application must be considered on its own merits and in accordance with the licensing authority’s statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case

Crime and Disorder

2.1 Licensing Authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).

2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

Public Safety

2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

2.8 A number of matters should be considered in relation to public safety. These may include:

- Fire safety;
- Ensuring appropriate access for emergency services such as ambulances;
- Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;

- Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
- Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).

Public Nuisance

2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (See Chapter 15). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues.

2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11pm and 8am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.

2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area or that, if they wish to smoke, to do so at designated places on the premises instead of outside and to respect the rights of people living nearby to a peaceful night.

Determining applications

9.37 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.

9.38 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy.

Relevant, Vexatious and Frivolous Representations

9.4 A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.

9.9 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.

Determining actions that are appropriate for the promotion of the licensing objectives

9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case by case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

Conditions attached to Premises Licences

10.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by an unlimited fine or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.

10.3 There are three types of condition that may be attached to a licence or certificate: proposed, imposed and mandatory. Each of these categories is described in more detail below

Proposed Conditions

10.4 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.

10.5 It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention

Imposed Conditions

10.8 The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. This provision also applies to minor variations.

10.9 It is possible that in some cases no additional conditions are appropriate to promote the licensing objectives.

Proportionality

10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case by case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

Hours of trading

10.13 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which the premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions

about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.

10.15 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

10. Determination

- 10.1 The Sub Committee are requested to consider the application for this review, representations, and to determine this review application.
- 10.2 When considering this application, the Sub Committee will need to have regard to the North Norfolk District Council Licensing Policy and to statutory guidance under the Licensing Act 2003 issued by the Secretary of State
- 10.3 In determining the application for this review on a Premises Licence the Sub Committee may take the following actions:
 - h. Revoke the licence
 - i. Remove licensable activities from the licence in order to promote the licensing objectives
 - j. Subject the licence to further relevant conditions to promote the licensing objectives
 - k. Refuse the review application and take no further action
 - l. Or any other action the committee deems necessary
- 10.4 This review application must be determined and notified to the applicant and licence holder within 5 working days from the conclusion of the hearing. Reasons for the Panel's decision must be given as both the applicant, licence holder and objectors have a right of appeal against that decision to the Magistrates Court.
- 10.5 There is a right of appeal to the decision of the Sub Committee to the Magistrates court within 21 days.

Appendices:

- A. Copy of Application
- B. Letters/emails from Responsible Authorities
- C. Letters/emails from 'Other Persons'
- D. Location Plan

Background Papers:

1. The Licensing Act 2003
2. North Norfolk District Council Statement of Licensing Policy (approved 17 November 2021)
3. Guidance issued under section 182 of the Licensing Act 2003 (April 2018)



Licensing Team
 North Norfolk District Council
 Council Offices
 Holt Road
 Cromer
 Norfolk
 NR27 9EN

Reference number

(office use only)

Schedule 8

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.

If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in **black ink**. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

The Environmental Protection Team at North Norfolk District Council apply for the review of a premises licence under section 51 / ~~apply for the review of a club premises certificate under section 87~~ of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises, or if none, ordnance survey map reference or description <u>Lily Mai's Bar Grill Cocktails</u> Craft Burger New Street	
Post town Cromer	Post code (if known) NR27 9HP

Name of premises licence holder or club holding club premises certificate (if known) C B Hospitality Ltd
--

Number of premises licence or club premises certificate (if known) LN/000001458

Part 2 – Applicant details

I am

Please tick

1) An individual, body or business which is not a responsible authority (please read guidance note 1)	<input type="checkbox"/> Please complete (A) or (B) below
2) A responsible authority	<input checked="" type="checkbox"/> Please complete (C) below
3) A member of the club to which this application relates	<input type="checkbox"/> Please complete (A) below

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr **Mrs** **Miss** **Ms** **Other title** (please state)

Surname

First names

I am 18 years old or over **Yes**

Current postal address if different from premises address

Post Town:	Postcode:

Daytime contact telephone number

E-mail address (optional)

B DETAILS OF OTHER APPLICANT

Name and address

Post Town:	Postcode:

Daytime contact telephone number (if any)

E-mail address (optional)

C DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address

Environmental Protection Team Environmental Health North Norfolk District Council Holt Road	
Post Town: Cromer	Postcode: NR27 9EN

Daytime contact telephone number (if any)

E-mail address (optional)

This application to review relates to the following licensing objective(s)

Please tick one or more boxes ✓

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 2)

The Environmental Protection Team is applying for a review of the premises licence on the grounds of prevention of public nuisance. This is largely due to the playing of amplified music to excessive levels, giving rise to statutory nuisance.

The Environmental Protection Team issued an abatement notice against the venue in 2018 to prevent a noise nuisance reoccurring. This was subsequently breached in 2021.

In the opinion of the Environmental Protection Team, action in the form of a Licence Review is required to ensure that appropriate measures are put in place to reduce the impact of amplified music ~~events~~ on local residents.

Please provide as much information as possible to support the application (please read guidance note 3)

Craft Burger is situated on New Street, Cromer facing the sea front. **Appendix 1** provides a location plan. The premises is situated below 1-10 Regency Flats which are occupied as residential properties. The premises was previously known as Bella Vista and was run as an Italian restaurant.

The holder of the premises licence is C B Hospitality Ltd. The designated Premises Supervisor is Mr Andrew Chad Hubbard [who is also the Director of C B Hospitality Ltd.](#)

Environmental Protection's first complaint was received in January 2016. A tenant in a Regency Flat situated on the first floor, directly above Craft Burger was complaining about excessive music and vibrations from Craft Burger. The complaint also included people noise, swearing, scraping of chairs and banging of doors. As per our procedure, the Environmental Protection team sent a letter on the 29th January 2016 to Craft Burger to make them aware of the complaint. The complainant also received a letter asking for a log of incidents to be kept.

On the 2nd February 2016, Rob Lewis, Senior Environmental Protection Officer was contacted by the complainant who raised concerns that noisy events would be held at Craft Burger on the 12th February 2016 until Midnight, 20th February 2016 until 2am and 14th May 2016 until 1am. In response to this, a visit was made to Craft Burger by Rob Lewis, Senior Environmental Protection Officer and Davina Romaine, Environmental Protection Officer on the 8th February 2016. They carried out a brief noise assessment of the speakers to determine whether the speakers had different noise output levels. All speakers ranged from 53dB to 64/65 dB. Options were discussed at this informal stage. It was recommended that speaker 1, situated beneath the complainant's property would be turned down considerably or turned off. The main control panel for the music had a volume button that was taped to prevent the volume being turned up even higher. It was agreed that the tape would be fixed lower down so that the staff could not change the volume beyond the taped level on the control panel.

Discussions were held about the forthcoming events. The planned event on the 14th May 2016 was a fund raising event for 150 guests until midnight or 00:30am. Options for minimising noise transference were discussed and it was suggested that not having a band or having a band with a noise limiter should help reduce noise disturbance.

Despite the visit on the 2nd February 2016 by Environmental Protection Officers, a complaint was received on the 16th February 2016 to advise that the music was turned up on Saturday 13th February 2016 at 9.20pm. In response to this, the Environmental Protection team agreed to install that the noise recording equipment in the complainant's living room on Friday 19th February 2016 to capture noise from the event to be held on the 20th February 2016. However, the complainant switched off the noise recording equipment on Sunday 21st February at 1am because she was concerned that the plug had got too hot. This meant that all data was lost and the recordings made from that weekend could not be retrieved.

Eight months passed before there was another noise complaint. On the 29th October 2016, a complaint was received in relation to music and vibration from a Halloween party. In response to this on the 3rd November 2016, Karen Baker made a visit with Rob Lewis to Craftburger and discussed the noise complaint with Mr Hubbard. Mr Hubbard advised that he felt that he had done a lot to reduce levels of noise and that his intention was to have 3 events a year with music. Karen Baker advised that she would have a meeting with the complainant to discuss the recent Halloween party. Mr Hubbard was informed that noise levels were allegedly loud enough to move ornaments on shelves.

On the 10th November 2016, Karen Baker visited the complainant who advised that she did not want to prevent Craft Burger having a small number of events but requested that Craftburger ensure that levels did not exceed what was reasonable. The complainant was informed that Mr Hubbard's

5 of 14

intention was not to have more than 3 events a year; New Year's Eve, Valentine's Day and Halloween. The complainant was informed that Mr Hubbard also intended to have a casino night in January but no music was planned. Karen Baker agreed to install noise equipment into the complainant's property for these occasions. The complainant alleged that during the last Halloween night celebration, the vibrations were so loud that ornaments were moving on her shelves. It was agreed that this would indicate that noise levels were too high. Karen Baker wrote to Mr Hubbard at Craft Burger on the 6th December 2016 to confirm the above. ~~Letter is produced as appendix 2.~~

On the 10th February 2017 as a precautionary measure, noise monitoring equipment was installed in complainant's property so that any noise disturbance from the Valentine's Day event could be recorded. No noise nuisance was recorded and the equipment was removed on the 15th February 2017.

On the 27th February 2017, Karen Baker contacted the complainant who confirmed that there were no noise issues from the last 2 events held at Craftburger, however there were no live bands at these events. Karen Baker decided that the case could be closed until a planned music event was listed on the Craft Burger website.

One year later on the 26th February 2018, an email from the complainant was received by Karen Baker to say that at approximately 4pm Saturday 24th February 2018 the noise from tables being dragged across the floor was loud enough for the person she was talking with on Skype to hear. The Officer was informed that at 7:45 pm the music started. There was nothing on their website which indicated they were open, no-one answered the phone when she called. She couldn't be sure if it was a DJ, or not but it was definitely louder and louder as the night went on, worse than ever before. The complainant said that it was as though they were all in the same room. It was approximately 00:10am when the music stopped and 00:50 by the time Craft Burger closed.

On the 26th February 2018, Karen Baker looked at Craft Burger website and did not see an event advertised, however found that an 80's night had been advertised on Craft Burger Facebook page. Karen Baker discussed this incident with the complainant on the 8th March 2018, delay caused by snow.

On the 14th March 2018, Karen Baker visited Craft Burger and spoke to Mr Hubbard. She informed him that we had received a complaint of loud music on the 80s night which continued until 00:10 and that there had then been noise from the scraping of chairs and tables. The banging door was also still a problem at times. Mr Hubbard explained that he has not had an event for over 15 months and that he needs to have 1-2 events a year in order to stay in business. He informed Karen Baker that he would like to have an event for Halloween if he has enough interest but he would not be having any other events in the meantime. Karen Baker explained that the complainant had repeatedly stated that they understood the need to remain a viable business, but that the music was too loud and intrusive. He did not feel that the noise was excessive and had monitored at the doorway. He did however appreciate that the noise could be transmitted through the fabric of the building. Karen Baker explained that the complainant was not aware that the event was happening and that if Mr Hubbard had notified the tenants of the flats above his premises then it would have come as less of a surprise. It also gives the option for people to go away for the event. Mr Hubbard confirmed that he advertises on Social Media. Karen Baker and Mr Hubbard agreed that Karen Baker would visit during his next event to monitor and give advice. Karen Baker asked for Mr Hubbard to contact her when he knew the next proposed date. Karen Baker asked Mr Hubbard to speak to staff about tables, chairs and door complaints. Mr Hubbard did not however feel that this was a justifiable complaint. This visit was followed up in writing on the 15th March 2018. ~~Appendix 3.~~

On the 5th October 2018, Karen Baker noticed on Craft Burger Facebook page that there was a Halloween party planned for the 27th October 2018. A decision was made to monitor the noise from this upcoming event within the complainant's home and to liaise with Mr Andrew Hubbard as necessary.

On the 27th October 2018, Donna Laubscher, Senior Environmental Protection Officer made a visit to the complainant's property to witness the noise disturbance and to liaise with Mr Andrew Hubbard at Craft Burger. Donna Laubscher arrived at the complainant's property at 21:00 hrs and was met throughout the night from residents within 3 of the flats. Song lyrics, bass, vibration, beat, rhythm and people shouting could clearly be heard in the complainant's property throughout the night. On a couple occasions, the metal table in the complainant's property vibrated.

At 21:55 Donna Laubscher met with Mr Andrew Hubbard at Craft Burger and advised that she was concerned that the music was unreasonably loud in the complainant's properties. Mr Hubbard explained that he had placed the DJ and band at the opposite end of the venue, furthest away from the main door. There was also 30 minutes delay in starting the event because he was in talks with the band and DJ about the noise issues and how to reduce the noise disturbance. Donna Laubscher advised that this was positive and whilst the complaints said that there was an improvement, she advised that she still had concerns with the intrusion in the flats above and may have to consider the service of a noise abatement notice. Donna Laubscher asked Mr Hubbard about the possibility of finishing any future live band / DJ events at 23:00. Mr Hubbard agreed that this could be possible if he could play his usual restaurant music afterwards. This conversation took place at the entrance of the premises. Mr Hubbard and Donna Laubscher walked the length of the venue to the DJ / band set-up. It was at this moment that a song played, that Donna Laubscher did not recognise but the bass was so powerful it felt like she was being punched in the stomach. Donna Laubscher explained this to Mr Hubbard and he said that he would speak to the DJ / band and arrange for the bass to be reduced. Donna Laubscher left Craft Burger at 22:05 and returned to the complainant's flat.

At 22:20 the occupant of flat 6 asked Donna Laubscher to return to her flat to experience the bass vibration because she did not feel that there had been a reduction since discussions at Craft Burger. Donna Laubscher went to flat 6 and could feel the vibration travel up her legs to the top of her thighs. The occupant gave Donna Laubscher permission to invite Mr Hubbard up to the flat to experience this.

Donna Laubscher returned to Craft Burger and Mr Hubbard agreed to visit to experience the noise and vibration the flat above the DJ / band. Whilst there, the music was initially not as bad as it had been before Donna Laubscher went to get Mr Hubbard however he was still able to clearly hear the music and feel the bass vibration. Mr Hubbard agreed that once again he would go to speak to the DJ / band about reducing the bass although he did express concerns that he was unsure of how they do that. Donna Laubscher advised that they should know how to manipulate their equipment to reduce the bass output. Mr Hubbard returned downstairs.

From 21:00 hrs until 23:35 hrs when she left the complainant's property Donna Laubscher was able to hear loud amplified music and vibration within two flats. The music was unreasonably loud and it had a substantial interference with the use and enjoyment of the complainant's homes. It would not have been possible to sleep in the flats until the music had stopped. Most song lyrics could be heard along with people noise.

On the 31st October 2018, Karen Baker visited Mr Hubbard at Craft Burger to discuss with him the noise nuisance that Donna Laubscher had witnessed on the 27th October 2018. Communications broke down between Mr Andrew Hubbard and Karen Baker.

On the 5th November 2018 a noise abatement notice was served under the Environmental Protection Act 1990 on Mr Andrew Hubbard. **Appendix 24 for abatement notice and covering letter.** The notice specified that Mr Hubbard was required to prevent the recurrence of the said nuisance by ceasing the use of amplified music (with the exception of the use of the existing sound system to provide ambient background music), until such time as a scheme to control the level of noise has been submitted to and approved in writing by North Norfolk District Council's Environmental Protection Team.

On the 6th November 2018 Mr Hubbard visited the Council offices and met with Karen Baker and Donna Laubscher. Mr Hubbard apologised for the way he had spoken to Karen Baker during their meeting on the 31st October 2018. Options to comply with the notice were discussed. It was agreed that Mr Hubbard would put these in writing and submit to Environmental Protection. The Council is still awaiting the scheme to control the level of noise from Mr Hubbard.

The discussions included the following control measures and limitations,

- Maximum of 2 externally advertised events a year with live music and /or DJ set.
- The DJ sets / live music events are to finish at 11pm, with recorded music using Craft Burger speakers set at a level agreed with Environmental Protection Officers between 11pm and midnight.
- Environmental Protection Officer to agree sound level to be used to control music from Craft Burgers own sound system for all other events.
- Residents to be notified of events.

• A scheme to control noise levels was never received from Mr Hubbard as required by the noise abatement notice issued on the 5th November 2018 and subsequently the notice remained 'active'. Until 2021 no further complaints relating to noise were received in relation to amplified music from the venue, though a large proportion of this time the premises was forced to close due to Covid-19. During this time the venue was rebranded as Lily Mai's Bar Grill Cocktails, though remained in under the same ownership and management.

Formatted: No bullets or numbering

Formatted: Superscript

• On the 19th August 2021 a complainant contacted the Environmental Protection Team and reported that issues they had experienced with noise from (then) Craft Burger was returning. The complainant detailed in an email that the music from Lily Mai's was 'now at the stage both physical and mental health is impacted'. The complainant followed this with a further email on the 21st August 2021 detailing that as they wrote the email at 00:10 the music was loud enough to rattling the windows and shaking the floors. Further detailing that people were screaming and 'youngsters not old enough to drink' were falling over in the street. This had been ongoing since 17:00 the preceding evening. The complainant stated that it was almost a daily occurrence and they had only had one night of peace in the past 10 days.

Formatted: Superscript

Formatted: Superscript

• On the 20th August 2021 two out of hour calls were received at 21:10 and 21:58 from separate complainants regarding music from Lily Mai's, unfortunately these were not passed to a duty officer at the time and not witnessed by an Environmental Protection Officer.

Formatted: Superscript

• On the 26th August 2021 David Pemberton, Environmental Protection Officer, attended Lily Mai's and spoke with Mr Andrew Hubbard about the recent complaints that had been received. It was explained to Mr Hubbard that the abatement notice issued in 2018 was still in place and had to be abided by. David Pemberton attended with a copy of the original abatement notice and read the requirements to Mr Hubbard verbatim. Mr Hubbard was offered a copy of the notice but stated he still had a copy in his records. David Pemberton suggested that he should formulate a scheme for noise as required by the abatement notice, but in the meantime suggested some small changes including trimming the bass of the sound system which may assist in prevent the transmission of vibrations. Mr Hubbard agreed he would have his 'sound tech' organise this. It was explained to Mr Hubbard that music can only be at an ambient level and should not be increased throughout the evening as the venue gets busier. Mr Hubbard made it clear that he was a business trying to survive following the pandemic and he wasn't operating outside his licence. It was explained to Mr Hubbard that the Council is not trying to prevent his business being a success but he cannot cause a nuisance and his licence does not supersede this. Mr Hubbard was informed that the complainant had shown an interest in mediation and he was willing to take part in this too (subsequently on the 9th September the complainant withdrew this offer due to continuing noise nuisance and perceived disregard to neighbours).

Formatted: Superscript

Formatted: Superscript

• On the 4th September 2021 two out of hour calls were received at 22:44 and 22:57 from separate complainants regarding music and general noise from Lily Mai's. Unfortunately again, these details were not passed to a duty officer to witness at the time.

Formatted: Superscript

On the 10th September 2021 NNDC received log sheets and notes from 3 complainants. The logs showed that most evenings of loud music took place on Friday and Saturdays, though also

Formatted: Superscript

occurred on weekdays fairly regularly. The logs suggest that music is turned up in the evening, on one occasion it is described as playing between 17:30-0055, 'loud all night, with volume turned up around 21:00 – shouting, banging – @11pm music blasted'. On another occasion: 'volume increased ¼ to 11, 11:30 very loud bursts, 10 to 2am still on'. It was noted on logs that not all days were exceptionally loud but would consist of 'constant thumping'. One complainant noted 'No-one should have to live with this – my lovely home of 3 years is now a nightmare' and 'the noise so disorients me all I can only stuff earplugs in, pillow over my head and pray for it to be over'.

On the 10th September a further report was received from a complainant that loud music had started at 08:00 and kept on getting turned up.

Formatted: Superscript

On the 3rd October further contact was received from the complainant that there had been a slight general improvement. However, on Friday 1st October 2021 music had started at 18:30, then the volume increased at 19:15 and again after 22:00, music stopped around midnight. On Saturday 2nd October music started around 22:15 and was still going at 01:10 on the 3rd October when the complainant emailed. The complainant tried knocking on the venue doors but got no response and the doors were locked.

Formatted: Superscript

Formatted: Superscript

Formatted: Superscript

Formatted: Superscript

On the morning of the 3rd October 2021 two separate reports were received regarding music from Lily Mai's into the out of hours service provided by NNDC. The duty officer was contacted at 01:37 and made aware of the complaints. James Mills, Environmental Protection Officer contacted the complainant who confirmed the music was ongoing. James Mills arrived in Cromer at the Regency Flats above Lily Mai's at 02:20. At the time of arrival the music was still playing. James Mills recorded in his pocket notebook that 'Immediately upon entering the door to the building I could hear bass thumping music. As I entered [complainant address] I noted the music could be heard even more clearly here. The source of the noise is obviously Lily-Mai's on the ground floor of the building. The music is very loud with prominent bass and kick drum particularly audible, however at times lyrics can also be heard. Complainant advised it had been even louder before I arrived, with pictures shaking on her walls from the vibration of the music. At the volume I witnessed I considered the music was very disruptive to sleep and impossible to ignore'. He continues '02:42am music is still very loud with bass thumping, and I can recognise the song currently playing as 'I Gotta Feeling' by Black Eyes Peas - I can hear the lyrics "tonight's gonna be a good night". The music can be heard all through the flat, but it is loudest in the main bedroom and the living room'. James Mills recorded at '02:49am the music has just stopped and now it is quiet. There is a marked difference between the quiet now present compared with the loud bassy music heard previously. Based on the volume level of time of occurrence of the music I have witnessed, I consider that this is a serious breach of the abatement notice previously served on Lily-Mai's/Craft Burger'.

Formatted: Superscript

-
-
-
-
-

Formatted: No bullets or numbering

Lily Mai's Director/Manager, Mr Hubbard was aware of the abatement notice in place and proceeded to allow this to be breached. Mr Hubbard was made aware of the witnessed breach and stated that he was not present at the time due to being away at a wedding and they had a private function that evening. Mr Hubbard stated that his is not the only business to make noise in the area and he operates in line with his licence to ensure his business stays afloat. Though it should be noted that in operating until 02:49 the venue is outside their hours of operation which only extend to 02:30hrs on Thursdays, Fridays and Saturdays.

C B Hospitality Ltd was offered and accepted a simple caution in relation to the breach of abatement notice, considered an admission of guilt to this offence. It is a condition of Lily Mai's premises licence to

ensure no nuisance is caused by noise emanating from the premises. **Appendix 3 for copy of signed simple caution.** Due to the breach being witnessed outside of their licensed hours (02:49hrs), C B Hospitality was also offered and accepted a simple caution in relation to the breach of the conditions of their premises licence. **Appendix 4 for copy of signed simple caution form.**

Formatted: Font: Bold

Formatted: Font: Bold

It is the opinion of the Environmental Protection Team that Lily Mai's Craft Burger as a venue for late night amplified music both recorded and live is unsuitable given the proximity to the residential premises multiple live music events is unsuitable and the continuation of live bands or DJ's would cause a significant nuisance to local residents. With the rebranding to a cocktail bar it would appear the premises has transformed from a restaurant hosting occasional events to a night time economy venue that is playing loud amplified music on a regular basis, indicating a fundamental change in business principle. Mr Hubbard places justification in operating in line with the conditions attached to his premises licence, therefore, based on the evidence provided above, The Environmental Protection Team would invite the Licensing Sub-Committee to consider the following measures to help ensure that the premises meets its licensing objectives and prevents further issues from affecting the local community;

• Live bands / DJ sets

~~Live bands and / or DJ sets to be limited to no more than two events in any calendar year. Finish time not to exceed 23:00. Recorded music played at a level agreed by Environmental Protection Officers can continue until 23:59 although the playing of music should not exceed 4 hours in total. Residents of 1-10 Regency Flats, Cromer to be given at least 7 days notification of these events.~~

• Recorded music/Live bands/DJ sets

~~A noise level agreed set by the Environmental Protection Team is to be used to control music from Lily Mai's Craft Burger at all times and for all music to cease by 23:59. In the event of a special event being planned, residents of 1-10 Regency Flats, Cromer to be given at least 7 days notification of these events.~~

• Operating Hours

Hours of operation to be reduced to:

Sunday to Wednesday 1000-0000hrs

Thursday to Saturday 1000-0100hrs

With allowance of additional hour for licensable activities on certain notable days of the year (LIH007) to be removed, (with the exception of New Year's Eve).

Formatted: Font: Not Bold

Formatted: Bulleted + Level: 1 + Aligned at: 0.63 cm + Indent at: 1.27 cm

• Door Supervision

A suitably qualified and SIA licensed door supervisor to be employed on Friday and Saturday evenings as well as at any individual events to prevent raucous or anti-social behaviour both inside and immediately outside the venue and encourage individuals to respect neighbours as they leave.

Formatted: Bulleted + Level: 1 + Aligned at: 0.63 cm + Indent at: 1.27 cm

Please tick ✓

Yes

Have you made an application for review relating to this premise before? ...No...

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--

If you have made representations before relating to the premises please state what they were and when you made them

N/A

CHECKLIST

Please tick Yes


- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected.....

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures

Please read guidance note 4

Signature of applicant or applicant’s solicitor or other duly authorised agent. (See guidance note 5) **If signing on behalf of the applicant please state in what capacity.**

Signature 

Date

..... 09/12/2021

Capacity..... Environmental Protection

Officer.....

Contact name (where not previously given) **and address for correspondence associated with this application** (please read guidance note 6)

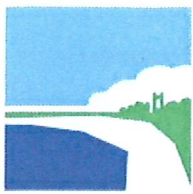
<u>David Pemberton</u> <u>Environmental Protection</u> <u>NNDC</u>	
Post Town: <u>Cromer</u>	Postcode: <u>NR27 9EN</u>
Telephone number (if any) <u>01263 516181</u>	
If you would prefer us to correspond with you using e-mail your e-mail address (optional) <u>david.pemberton@north-norfolk.gov.uk</u>	

Notes for Guidance

- A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.**
- The ground(s) for review must be based on one of the licensing objectives.**

3. **Please list any additional information or details for example dates of problems which are included in the grounds for review if available.**
4. **The application form must be signed.**
5. **An applicant's agent (for example Solicitor) may sign the form on their behalf provided that they have actual authority to do so.**
6. **This is the address which we shall use to correspond with you about this application.**





Reference: WK/180022932

ENVIRONMENTAL PROTECTION ACT 1990
Section 80
Abatement Notice in Respect of Statutory Nuisance

To: C B Hospitality Limited
22 Cardinal Close
Easton
Norwich
Norfolk
NR9 5EW

TAKE NOTICE that under the provisions of the Environmental Protection Act 1990 the **North Norfolk District Council** being satisfied of the likely recurrence of a statutory nuisance under section 79(1) (g) of the Act at the premises known as Craft Burger, New Street, Cromer, Norfolk, NR27 9HP within the District of the said Council

The Nuisance is: Noise from amplified music

You are the person responsible for the nuisance

What you are required to do: You are required to prevent the recurrence of the said nuisance by ceasing the use of amplified music (with the exception of the use of the existing sound system to provide ambient background music), until such time as a scheme to control the level of noise has been submitted to and approved in writing by North Norfolk District Council's Environmental Protection Team.

Time for compliance: from the date of service of this notice.

Paragraph (2) of Regulation 3 of The Statutory Nuisance (Appeals) Regulations 1995, applies and as a consequence:

IN the event of an appeal this notice shall NOT be suspended until the appeal has been abandoned or decided by the Court, as, in the opinion of the Council, the expenditure which would be incurred by any person in carrying out works in compliance with this notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance

IF without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be guilty of an offence under section 80(4) of the Environmental Protection Act 1990, and on summary conviction will be liable to an unlimited fine, together with a further fine of an amount equal to one tenth of the greater of £5000 or level 4 on the standard scale for each day on which the offence continues after conviction. A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to an unlimited fine.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance. Further, if you fail to execute all or any of the works in accordance with this notice, the Council may execute the works and recover from you the necessary expenditure incurred.

Dated 05 November 2018

Signed 

Karen Baker
Senior Environmental Protection Officer

Address to which all communications should be sent:

Head of Environmental Health, North Norfolk District Council, Holt Road, Cromer, Norfolk, NR27 9EN

NB The person served with this notice may appeal against the notice to a Magistrates' Court within twenty-one days beginning with the date of service of the notice. See notes on the reverse of this form.

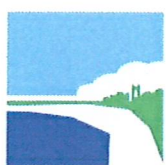
The Statutory Nuisance (Appeals) Regulations 1995 provide as follows:

APPEALS UNDER SECTION 80(3) OF THE ENVIRONMENTAL PROTECTION ACT 1990 ("the 1990 Act")

2. (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (Appeals to Magistrates') against an abatement notice served upon him by a local authority.
- (2) The grounds on which a person served with such a notice may appeal under section 80(3) on any one or more of the following grounds that are appropriate in the circumstances of the particular case.
 - (a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
 - (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
 - (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement 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 abatement notice are to be complied with is not reasonably sufficient for the purpose;
 - (e) where the nuisance to which the notice relates – (i) is a nuisance falling within section 79(1)(a), (d), (e), (f) or (g) of the 1990 Act and arises on industrial, trade or business premises or, (ii) is a nuisance falling within section 79(1)(b) of the 1990 Act and the smoke is emitted from a chimney or, (iii) is a nuisance falling within section 79(1)(ga)(a) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes that the best practicable means were used to prevent, or to counteract the effects of the nuisance;
 - (f) that, in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act (noise emitted from premises) the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force in relation to the noise to which the notice relates, of
 - (i) any notice served under section 60 or 66 of the 1974 Act (control of noise on construction sites and from certain premises), or
 - (ii) any consent given under section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or
 - (iii) any determination made under section 67 of the 1974 Act (noise control of new buildings);
 - (g) that, in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements from the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of schedule 2 to the 1993 Act (loudspeakers in streets or roads);
 - (h) that the abatement notice should have been served on some person instead of the appellant, being
 - (i) the person responsible for the nuisance, or
 - (ii) the person responsible for the vehicle machinery or equipment, or
 - (iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
 - (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
 - (i) that the abatement notice might lawfully have been served on some other person instead of the appellant, being
 - (i) in the case where the appellant is the owner of the premises, the occupier of the premises, or
 - (ii) in the case where the appellant is the occupier of the premises, the owner of the premises, and that it would have been equitable for it to have been so served;
 - (j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being
 - (i) a person also responsible for the nuisance,
 - (ii) a person who is also an owner of the premises,
 - (iii) a person who is also an occupier of the premises,
 - (iv) a person who is also the person responsible for the vehicle, machinery or equipment, and that it would have been equitable for it to have been so served;
- (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 abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3), 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 to include a ground specified in paragraph (2)(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.
- (5) On the hearing of an appeal the court may;
 - (a) quash the abatement notice to which the appeal relates, or
 - (b) vary the abatement notice in favour of the appellant, in such manner as it thinks fit, or
 - (c) dismiss the appeal;and an abatement notice that is varied under subparagraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.
- (6) Subject to paragraph (7) below, on the hearing of appeal the court may make such order as it thinks fit;
 - (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
 - (b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.
- (7) In exercising its powers under paragraph (6) above, the court
 - (a) shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and
 - (b) shall be satisfied, before it imposes any requirement thereunder on any person other than the appellant, that the person has received copy of the notice of appeal in pursuance with paragraph (4) above.

SUSPENSION OF NOTICES

3. (1) Where:
 - (a) an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and;
 - (b) either;
 - (i) compliance with the abatement notice would involve any person in expenditure on the carrying out of works before the hearing of the appeal, or
 - (ii) in the case of a nuisance under section 79(1)(-g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant, and
 - (c) either paragraph (2) does not apply, or it does apply but the requirements of paragraph (3) have not been met, the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.
- (2) This paragraph applies where;
 - (a) the nuisance to which the abatement 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 it 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 abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.
- (3) Where paragraph (2) applies the abatement notice;
 - (a) shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect notwithstanding any appeal to a Magistrates' court which has not been decided by the court, and Magistrates' court which has not been decided by the court, and shall include a statement as to which of the grounds set out in paragraph (2) apply.



Our ref: KB/WK/180022932

05 November 2018

Company Secretary
C B Hospitality Limited
22 Cardinal Close
Easton
Norwich
Norfolk
NR9 5EW

Dear Sir/Madam

Environmental Protection Act 1990 Section 79 and 80

**Re: Statutory Noise Nuisance at Craft Burger, New Street, Cromer, Norfolk,
NR27 9HP**

**THIS LETTER IS FOR INFORMATION ONLY AND DOES NOT FORM PART OF
THE ENCLOSED NOTICE**

I write to inform you that I am satisfied of the likely recurrence of a statutory nuisance from noise from amplified music.

As such, and in line with the Council's Enforcement Policy, I have enclosed a Statutory Notice requiring you to prevent the nuisance. I would advise you to read the notice carefully, in particular the section outlining what the Council expects and the time period allowed for compliance. You should also be aware that there is an Appeal Procedure, which is outlined in the notes on the reverse of the Notice.

Failure to comply with the requirements of the Notice will lead to legal proceedings being instigated against you. Upon conviction you are liable to an unlimited fine.

During an officer visit to meet with Mr Hubbard, on 31st October 2018, this Department has attempted to negotiate a way in which events and celebrations can be held at the above premises without causing a statutory noise nuisance to neighbouring residents. Discussions broke down and an agreement was not able to be made.

Should Craft Burger wish to continue to hold events involving amplified music, there are a number of ways that noise can be controlled and intrusion to nearby residents reduced. These include, but are not limited to, agreeing to a specific number of events, installation of a noise limiter, installation of a noise warning system, use of equipment set up or designed to focus music in a limited location, improving noise insulation and limiting times that amplified music can be played. Using the services of an acoustic consultant to identify noise mitigation measures, could also be used.

Whilst the noise abatement notice allows the continued use of the existing sound system to provide ambient background music, it should be noted that music played using this system must not be to levels that would cause a statutory noise nuisance to nearby residents.

If you have not already done so, it is strongly recommend that you seek independent legal advice on this matter. Should either you or your legal representative wish to discuss this matter please contact the telephone number below, quoting the reference at the top of this letter.

Yours sincerely

Handwritten signature of Karen Baker in black ink.

Karen Baker
Senior Environmental Protection Officer
Telephone 01263 516203
Email ep@north-norfolk.gov.uk
Enclosure

**NORTH NORFOLK DISTRICT COUNCIL
SIMPLE CAUTION**

Case Reference: WK/210014744

Offender's Name: CB Hospitality Ltd – Director Mr Andrew Hubbard

Registered No.: 10023668

Registered Office Address: 22 Cardinal Close
Easton
Norwich
Norfolk
NR9 5EW

Date of Offence: 3rd October 2021

Place of Offence: Lily Mai's Bar Grill Cocktails
Craft Burger
New Street
Cromer
Norfolk
NR27 9HP

Legislation contravened: Environmental Protection Act 1990, Sec 79/80

Brief Circumstances of Offence:

In 2018 CB Hospitality Limited was issued with an abatement notice by North Norfolk District Council (NNDC) in response to noise complaints due to amplified music emanating from Craft Burger (as it was then named). The abatement notice detailed that CB Hospitality Ltd were required to prevent the recurrence of the said nuisance by ceasing the use of amplified music (with the exception of the use of the existing sound system to provide ambient background music), until such time as a scheme to control the level of noise has been submitted to and approved in writing by NNDC's Environmental Protection Team. The abatement notice remained active. In 2021 further noise complaints were received in relation to music from the venue (now named Lily Mai's). The Director of CB Hospitality Ltd was reminded of the abatement notice that remained in place. On Sunday 3rd October 2021 between 0220hrs and 0250hrs an Environmental Protection Officer attended a neighbouring property following noise complaints relating to music from Lily Mai's. The noise levels were above ambient levels and likely to cause a nuisance to nearby residents. The Officer confirmed that a breach of the abatement notice had been witnessed.

Declaration

I hereby declare that on behalf of the above-mentioned Company, I admit the offence described above and agree to accept a caution in this case. I understand that a record will be kept of this caution and that it may influence a decision to institute proceedings should the Company be found to be infringing the law in the future. I further understand that this caution may be cited should the Company subsequently be found guilty of an offence by a Court of Law.

Name: (block Capitals) ANDREW HUBBARD

Position within Company: Director

Signed: 

Date: 23/11/2021

Signed: 

**Emily CAPPS (Assistant Director – Environment and Leisure Services)
Cautioning Officer**

Date: 23/11/2021

**NORTH NORFOLK DISTRICT COUNCIL
SIMPLE CAUTION**

Case Reference: WK/210014744

Offender's Name: CB Hospitality Ltd – Director Mr Andrew Hubbard

Registered No.: 10023668

Registered Office Address: 22 Cardinal Close
Easton
Norwich
Norfolk
NR9 5EW

Date of Offence: 3rd October 2021

Place of Offence: Lily Mai's Bar Grill Cocktails
Craft Burger
New Street
Cromer
Norfolk
NR27 9HP

Legislation contravened: The Licensing Act 2003; Section 136

Brief Circumstances of Offence:

On Sunday 3rd October 2021 between 0220hrs and 0250hrs an Environmental Protection Officer attended a neighbouring property following noise complaints relating to music from Lily Mai's. The noise levels were above ambient levels and likely to cause a nuisance to nearby residents.

Premises Licence LN/000001458, issued under the Licensing Act 2003, authorises live and recorded music to be played on the premises between 1000 hours and 0100 hours on Sundays to Wednesdays inclusive and between 1000 hours and 0200 hours on Thursdays to Saturdays inclusive.

Playing music until 0250 on Sunday 3rd October was not authorised by the Premises Licence and constituted an offence contrary to Section 136 of the Licensing Act 2003 in that a licensable activity was being undertaken on the premises otherwise than under and in accordance with an authorisation.

Declaration

I hereby declare that on behalf of the above-mentioned Company, I admit the offence described above and agree to accept a caution in this case. I understand that a record will be kept of this caution and that it may influence a decision to institute proceedings should the Company be found to be infringing the law in the future. I further understand that this caution may be cited should the Company subsequently be found guilty of an offence by a Court of Law.

Name: (block Capitals) ANDREW HUBBARD

Position within Company: Director

Signed:



Date:

23rd / 11 / 2021

Signed:



**Emily CAPPS (Assistant Director – Environment and Leisure Services)
Cautioning Officer**

Date:

23 / 11 / 2021.

This page is intentionally left blank

Dear All,

Having searched our databases, we can find no record of any Immigration offences in relation to the above premises, therefore Immigration Enforcement will not be making any representations at this time.

Regards

Phil Thomas

The Alcohol and LNR Licensing Team
Interventions and Sanctions Directorate
Immigration Enforcement
Home Office
15th Floor Long Corridor
Lunar House
40, Wellesley Road
Croydon CR9 2BY

Tel: +443000728896

For new applications - Alcohol@homeoffice.gov.uk

For enquiries relating to license applications or ongoing reviews - IE.Alcoholenquiries@homeoffice.gov.uk

For reviews to be considered or initiated along with hearing dates - IE.Alcoholreviews@homeoffice.gov.uk





NORFOLK

CONSTABULARY

Our Priority is You

Norfolk Constabulary

Licensing Team
Bethel Street Police Station
Norwich
Norfolk
NR21NN

Tel: 01603 276024
Fax: 01603 276025
Email: licensingteam@norfolk.pnn.police.uk

www.norfolk.police.uk
Non-Emergency Tel: 0845 456 4567

Licensing Manager,
North Norfolk District
Council,
Holt Road,
Cromer,
Norfolk,
Nr27 9EN

Date: 27/01/2022

Your Ref:

Our Ref:

Dear Licensing Team,

Norfolk Constabulary supports the application by the responsible authority Environmental Health to review the premises licence at Lily-Mai's, New Street, Cromer.

Whilst the application for review has been made specifically under the public nuisance Licensing objectives, as the lead responsibility authority for crime and disorder, it is felt we should highlight the below to the Licensing Sub-Committee in order to allow the fuller picture on how the premises is run.

The following incidents indicate the owner Andrew Hubbard has been complicit in allowing incidents of crime and disorder at his premises. Whilst it is acknowledged these incidents have not warranted a formal licensing intervention on their own merit, this current review allows an opportunity for the Licensing Sub-Committee to consider the imposition of a CCTV condition to be added to the operating schedule, to aid compliance with the licensing objectives as a whole and in particular crime and disorder.

24/10/2020 22:00 PC Boakes reports

Description REPORTED BRAWL OUTSIDE OF PREMISES. ON TALKING TO STAFF, THEY CLAIMED THAT WHEN TROUBLE STARTED, THEY MADE SURE EVERYONE LEFT, THEY THEN KEPT THE STAFF INDOORS WHILST THE 'BRAWL' CONTINUED OUTSIDE, NO NAMES OF THOSE INVOLVED IN THE BRAWL WERE SHARED. THE PROBLEM HERE IS WHEN THE BRAWL STARTING IN THE PREMISES NO STAFF CALLED POLICE

26/10/2020 14:30 PC Barnes reports

Description I ATTENDED LILY-MAI'S AGAIN TO SPEAK TO THEM ABOUT THEIR CCTV. I SPOKE WITH A YOUNG FEMALE MEMBER OF STAFF WHO SAID THE CCTV WAS WORKING, BUT SHE COULDN'T



ACCESS IT. SHE THEN GOT ANDREW HUBBARD FOR ME, HE STATED THAT I WAS THE 3RD OFFICER TO ATTEND ABOUT CCTV AND HE SAID IT WASN'T WORKING. I THEN TOLD HIM WHAT THE FEMALE HAD SAID AND HE SAID SHE WAS WRONG. I ASKED HIM IF HAVING CCTV WAS PART OF HIS LICENSING REQUIREMENTS AND HE SAID THAT THE CCTV WASN'T HIS MAIN PRIORITY AT THIS TIME. HE THEN SAID THE CCTV WAS WORKING BUT NOT FOR THE FRONT CAMERA, WHICH IS THE ONE THAT IS REQUIRED.

I ASKED TO SEE THE CCTV AND HE TOOK ME TO THE CUPBOARD, THE SCREEN WAS ON STANDBY, BUT WHEN HE MOVED THE MOUSE, THE SCREEN WAS FROZEN ON A STILL, WHICH WAS FROM THE CAMERA AT THE FRONT OF THE RESTAURANT WHICH WAS THE CAMERA NEEDED, HE CLOSED THE IMAGE DOWN AND SHOWED ME THUMB NAILS OF THE CAMERAS AND IT WAS MISSING THE CAMERA WE REQUIRED, WHEN I QUESTIONED HIM ABOUT THIS HE STATED THAT IT WAS FROM AN INCIDENT A FEW WEEKS AGO, I ASKED HIM TO SHOW ME AND HE SAID NO, HE THEN STARTED TO BECOME ARGUMENTATIVE, HE TOLD ME THAT HIS BROTHER JAMIE HAD KICKED A GUY OUT ON SATURDAY NIGHT FOR BEING DRUNK AND DISORDERLY, BUT THEN HE WOULDN'T GIVE ME HIS BROTHERS DETAILS.

HE THEN BECAME A LOT MORE VOCAL, I TRIED TO ASK HIM TO QUIETEN DOWN. I EXPLAINED THAT I COULD SEIZE THE CCTV UNDER SECTION 19 OF PACE. AT THAT POINT HE STARTED SHOUTING AT ME, A THOUGHT IT WOULD BE BETTER TO LEAVE, AS I WAS WALKING OUT OF THE RESTAURANT, HE CONTINUED SHOUTING AT ME. I LEFT THE RESTAURANT AND STOOD IN THE DOORWAY, HE CONTINUED HAVING A GO AT ME AND SAYING JUST BECAUSE I HAD A BADGE DIDN'T MEAN I COULD DO WHATEVER I WANTED.

HE ASKED ME IF I HAD ARRESTED THE GUY AND I SAID NO, HE THEN ASKED IF I HAD ARRESTED ANYONE, AGAIN I SAID NO, AT THAT POINT HE SHOUTED AT ME SAYING I WAS TRYING TO MAKE AN INVESTIGATION OUT OF NOTHING AND THAT IT WAS JUST A FIGHT.

I THEN SAID THAT HE WAS BEING UNPROFESSIONAL AND I WALKED AWAY TO MY POLICE CAR. THERE WERE CUSTOMERS INSIDE THE RESTAURANT, SO FOR ANDREW HUBBARD TO BE ACTING THIS WAY WAS UNPROFESSIONAL. HE WAS NOT HELPFUL AND I FELT HE WAS WITH HOLDING WHAT COULD BE IMPORTANT EVIDENCE.

20/11/2021 PC Beastall reports

Description THE VICTIM REPORTS THAT HE WAS FOLLOWED INTO THE DISABLED TOILETS BY AN UNKNOWN INDIVIDUAL WHO GOES BY THE NAME OF "POLISH". THE MALE HAS STATED "WE'RE GOING TO DO SOMETHING OR WE'RE GOING TO SMASH YOU!". THE VICTIM HAS STOOD HIS GROUND AND THE MALE HAS BACKED DOWN. THE VICTIM TOOK HIS WORDS AS A THREAT AND FEARED FORCE FROM THE INDIVIDUAL.

20/11/2021 PC Wright reports

Description THE VICTIM HAS BEEN INSIDE LILLY MAES BAR IN CROMER AND HAS HAD A DISAGREEMENT WITH THREE UNKNOWN MALES. HE HAS LEFT THE BAR, THE THREE UNKNOWN MALES HAVE FOLLOWED HIM AND 'JUMPED' HIM ON PRINCE OF WALES ROAD, CAUSING INJURY. VICTIM STATES HE DOES NOT REMEMBER WHAT THE DISAGREEMENT WAS ABOUT AND DOES NOT KNOW WHO THE SUSPECTS WERE. OWNER ANDREW HUBBARD REQUESTED TO PROVIDE CCTV FROM LILLY MAES, CROMER

Based on the above incidents Norfolk Constabulary respectfully seeks the following wording is added to the operating schedule under the Crime and Disorder licensing objective-

"an adequate CCTV system will be in operation at the premises whenever it is open for business. Images must be stored in digital format, for a minimum of 28 days and made available, on reasonable request

to police or regulating licensing authorities. Any failure to provide the images when properly requested, will constitute a breach of the premises licence”

Yours Sincerely

Chris Brooks
Licensing Officer
Norfolk Police



From: [REDACTED]
To: [Licensing](#)
Subject: Representations: Review application - WK/220000254 - Lily-Mai's Bar Grill Cocktails, New Street, Cromer, Norfolk, NR27 9HP
Date: 08 February 2022 13:55:36

Dear Public Protection Team,

I wish to register my support for the review of the premises license ref. WK/220000254 - Lily-Mai's Bar Grill Cocktails, New Street, Cromer, Norfolk, NR27 9HP. As a resident in one of the neighbouring properties ([REDACTED]) we have been, and will in future be regularly affected by the noises coming from Lily Mai's. I believe that the variations to the license proposed by the review application will go some way to mitigating the nuisance caused by the noise and therefore the application has my support. I would however ask that my name and address are not made public in relation to this application on the basis that the residents of [REDACTED] have been in a long running dispute with the management of Lily Mai's regarding ownership of the land between the buildings. There have been several heated encounters which have included threats of a physical nature being made by Lily Mai's staff, and I believe that if it were known that residents of [REDACTED] were supporting restrictions on the premises' license, there is a very real possibility of further threats, abuse and damage to our property [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

NR27 9HP.
8th February 2022

Dear Sir/Madam,

Lily Mai, New St., Cromer
Review of Licence

I live directly above the exit door of Lily Mai Restaurant. At the weekends I and my wife have started to go to bed at 1am instead of 11pm because of the noise of people coming out of Lily Mai. There is a recessed area before the entrance door to 1-4 Regency Flats, and the door to the ice cream kiosk. The customers of Lily Mai come into this area to smoke out of the wind and rain. Sometimes when I come down in the morning I have to clear up broken glass, sick and cigarette butts.

Yours Sincerely
[Redacted]

NORTH NORFOLK D.C.

-9 FEB 2022

POSTAL SERVICES



This page is intentionally left blank

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank