



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
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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

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 complainants 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.

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• 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.

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• 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.

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• 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).

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• 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.

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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

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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.

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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.

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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'.

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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.**

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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).

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• 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.

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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

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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

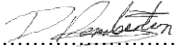
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected.....

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)

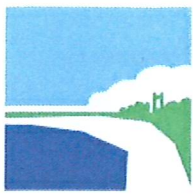
<u>David Pemberton</u> <u>Environmental Protection</u> <u>NNDC</u>	
Post Town: <u>Cromer</u>	Postcode: <u>NR27 9EN</u>
Telephone number (if any) <u>01263 516181</u>	
If you would prefer us to correspond with you using e-mail your e-mail address (optional) <u>david.pemberton@north-norfolk.gov.uk</u>	

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.

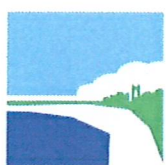
The Statutory Nuisance (Appeals) Regulations 1995 provide as follows:

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

A handwritten signature in black ink that reads "K Baker". The signature is written in a cursive style with a large initial 'K'.

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.