

DETERMINATION NOTICE

Date of Hearing	21st September 2016, 10.00am
Sub-Committee Members	Councillors C J Crofts, M Hopkins and S Squire
Legal Adviser	Jo Furner
Licensing Manager	John Gilbraith
Democratic Services Officer	Rebecca Parker
Applicant for Review	Ms Karen Watling
Licence Holder	Mr J K Lee
Premises Address	Hanse House South Quay King's Lynn PE30 5gn
Responsible Authorities	Alison Demonty – Community Safety and Neighbourhood Nuisance
Objectors in attendance	Dr J Litten Mrs H Russell-Johnston
Application	Review of a Premises Licence

APPLICATION

The Borough Council of King's Lynn and West Norfolk (the Council), being the relevant licensing authority, received an application to review the premises licence for Hanse House under 'the prevention of public nuisance' Licensing Objective.

Representations:

- Community Safety and Neighbourhood Nuisance had made a representation in support of the review application.
- There were no representations from the remaining responsible authorities.
- There were six representations from other persons in support of the review application to consider.
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HEARING

On 21st September 2016, a Hearing was held to consider the review application. The Sub-Committee determined the application with a view to promoting the four licensing objectives. It considered the application on its own merits. In reaching its determination, the Sub-Committee had regard to the following matters:

- The relevant parts of the written and oral evidence before them;
- The Borough Council of King's Lynn and West Norfolk Licensing Policy;

- Statutory Guidance issued under the Licensing Act 2003;

The Sub-Committee listened to all the evidence and submissions. It heard from:

- The Licensing Manager
- The Applicant for Review
- The Licence Holder
- The Responsible Authorities
- The other persons present who had made representations in support of the review.

SUMMARY OF EVIDENCE

The Licensing Manager presented his report to the Sub-Committee and identified relevant extracts from the Council's Licensing Policy and the statutory guidance issued under the Licensing Act 2003. He particularly drew every one's attention to the change in law which meant that live music and amplified live music and recorded music played to audience of less than 500 does not require to be licensed between 8am and 11pm. He explained, therefore, any existing conditions specifically relating to this were suspended between those hours, and the committee could not impose conditions specifically relating to these activities during those times unless it was satisfied that there were grounds to do so, i.e. in this case they would need to be satisfied that there was sufficient public nuisance occurring prior to 11pm. He also reminded the sub-committee that since the review was only relating to regulated entertainment they should not be concerned with the other licensable activities, such as the provision of alcohol or late night refreshments, and accordingly a suspension or revocation of the entire licence would not be appropriate.

The Applicant for Review presented her case and responded to questions from all parties. She summarised her written representations, explaining in the main that she was disturbed by noise coming from events at this Premises and had been so since March 2014. After having no success liaising with the Licence Holder directly, she contacted and involved the Community Safety and Neighbourhood Nuisance (CSNN) Team at the Borough Council of King's Lynn and West Norfolk. She stated that from inside her flat it was often difficult to discern where the music was coming from, and so would open her windows or go outside to do so. However, the south range function room in particular was immediately opposite her home, with windows of both it and her property facing into St Margaret's Lane. She stated her property was a single depth property and she was unable to go to another room to escape the noise. She did explain that the nature of her job meant she worked away a lot, particularly during the week. She indicated her support for the recommendations by the CSNN team, but was also seeking a reduction in end time to 11pm. It was further conceded that the south range function room had not been used in the past couple of months. During questioning, she confirmed that the music, particularly from the South Range function room caused a nuisance and disturbance, but this was at its most frustrating post 11pm, this being the time she is naturally inclined to go to sleep. The Respondent also asked her if she felt the problem would be resolved if the south range function room were to be converted to a flat, which she confirmed it would be.

The Licence Holder presented his case and responded to questions from all parties. He stated that of the 1008 nights he had been permitted to use Hanse House for functions he had done so on 15 occasions, 9 of those had been referred to on the logs provided by the Applicant. He stated that he did not consider the Applicant for the most part was making valid complaints as

the noise she was hearing was during his licensed hours, and therefore he was doing nothing wrong. He referred to a petition which indicated that people were happy with the way his premises were being run, and that he had tenants within the Hanse House complex who were not disturbed by events at his premises. He also referred to an email from the Applicant dated 2 July 2015 where she noted and thanked the Respondent for the 'considerable reduction in sound disturbance emanating from live entertainment and events held in your premises over the last month'. He stated that he had operated for three years with no other complaints, save for from the Applicant. He further stated that an earlier end time for regulated entertainment in this premises would make it difficult for him to sell it as a wedding venue, particularly when the Town Hall, being his direct competition, had a licence until 1am. He took the view that he had acted for the most part, in accordance with the conditions of the licence and acted reasonably. During questioning, he conceded that on a couple of occasions an event may have gone on beyond the terminal hour by ten minutes or so. He also confirmed that only one of his tenants in Hanse House was an employee or friend of his, and that when there is an event either him, his wife or his daughter were present at the Premises.

The Responsible Authority, Community Safety and Neighbourhood Nuisance team, presented their case and responded to questions from all parties. They confirmed that they supported the application for review. They had attempted to work with the Respondent for a period of time, and whilst there was some cooperation they were occasions where informally agreed requirements were not adhered to, such as keeping doors and windows closed when amplified music was being played, using sound insulation boards in the windows. They also witnessed on occasions where the noise emanating from the property, although not a statutory nuisance, was capable of and did amount to public nuisance to residents in the area. During questions, it was noted that CSNN had received complaints other than from the Applicant. It was reiterated that with the imposition of some minimal requirements, which were not considered to be unreasonable or over-burdensome to the Respondent, the issue of nuisance could be resolved. The recommendations included not using the south range function room for amplified music, a revised noise management plan, to include noise monitoring every 30 minutes.

The other persons present presented their case and responded to questions from all parties. Mrs Russell-Johnston confirmed the events at Hanse House were of major concern to her and there appeared to her to have been little attempt by the Respondent to reduce the noise, particularly from the south range function room. She stated she had seen insulation boards removed and windows opened during the course of the evening and that she could not imagine how it was ever a good idea to have a party venue in such close vicinity of residential properties.

Dr Litton, expressed his concerns as to the suitability of the premises itself given its structure and its proximity to residential premises.

FINDINGS

The Sub-Committee had due regard to the report of the Licensing Manager, representations put forward in the agenda and the representations put forward at the Hearing.

They were persuaded that the events at Hanse House were causing a noise nuisance to residents in the area, both prior to 11pm and particularly afterwards, and this was contrary to the licensing objective of the prevention of public nuisance. They were persuaded, not only by the Applicant and other interested persons who had submitted letters in support of the review, but also by evidence from CSNN indicating that whilst they did not consider that disturbance was

sufficient to be classed as a statutory nuisance within the meaning of the Environmental Protection Act 1990, there were occasions, witnessed by them, when the noise levels were such that they were causing an unreasonable disturbance to residents. The Sub-committee also took head of the fact that, despite the Respondent agreeing to cooperate with CSNN, they were not prepared to agree to some of their recommendations, and there were occasions where the ones they did agree to were not adhered to, for instance keeping the windows and doors to the function rooms closed and the use of soundboards when functions were taking place. Indeed they noted the Respondent commented in relation to an observation by the Applicant that the windows of the south range function room were open, that he was 'currently under no obligation to close the windows' and the open windows were not those immediately facing the residential properties. Indeed, the Sub-Committee were concerned by the cavalier attitude of the Respondent, who appeared, throughout the hearing, to take the view that if any noise occurred during his licencing hours, this could not amount to a nuisance and was not therefore a valid complaint. They did not consider that licence gave the Respondent carte blanche to make whatever noise he wished provided it was within the hours permitted by the licence.

The Sub-committee were not satisfied that the south range function room was suitable as a venue for the provision of amplified music, and that even during earlier hours of the evening, its very close proximity to residential properties, the nature of the building, it being a listed building etc. was such that any amplified music was capable of affecting and did affect the neighbours and their quiet enjoyment of their properties such that it amounted to a public nuisance. Despite the above, the Sub-committee were sympathetic to the Respondent's concerns about the popularity of the premises as a wedding venue if its terminal hours for regulated entertainment were reduced. Accordingly, the only adjustment they considered to terminal hours is in relation to any live or amplified music was outside.

In light of all this, and in light of the fact that CSNN were considered the experts in relation to noise nuisance, they decided, to adopt the recommendations of CSNN set out in their letter of 30 August 2016 and submitted in support of the review, although slightly amended. Accordingly, the Sub-committee invoking powers available to it, took the decision that section 177A of the Licensing Act 2003, as amended, shall not apply to this premises.

DETERMINATION

The following conditions/amendments shall apply to this Premises Licence.

- 1) Section 177A of the Licensing Act 2003 shall not apply to Hanse House.
- 2) The South Range Room shall not be used as a venue for the provision of amplified music.
- 3) During any event, where there is live or amplified music in any function room in Hanse House, the windows and doors shall be kept closed at all times save for egress and access.
- 4) A noise management plan shall be submitted to CSNN team of the Borough Council of King's Lynn and West Norfolk within 28 days of the start date of the decision notice, to be approved by the CSNN team. Once approved the noise management plan, and any subsequent changes to the same, shall be adhered to. It is recommended that the Respondent meet with the CSNN team within 7 days of the date of the decision notice. As part of the noise management plan, when amplified music is taking place, noise levels shall be monitored by the Respondent or another so designated person at intervals of 30 minutes, on St Margaret's Lane, South Quay and Nelson street and recorded and made available to the CSNN or licensing team upon request. Details of how the monitoring

shall take place, and what is to be recorded shall be specified with CSNN and shall form part of the noise management plan.

- 5) The terminal hour for any live or amplified music outside shall be reduced to 11pm on a Friday and Saturday.
- 6) Conditions 12 on the existing premise licence shall be removed.

RIGHT OF APPEAL

There is a right of appeal against this decision to the Magistrates Court, available to both the Applicant and the persons making representations. An appeal must be commenced within 21 days beginning with the day on which notification of this decision is received. Independent legal advice may be sought from a solicitor or the Citizens Advice Bureau regarding this if consideration is being given to lodging an appeal.

Signed.....
Chairman (Councillor C J Crofts)

Date: 22nd September 2016