

Borough Council of  
**King's Lynn &  
West Norfolk**



# **Licensing Committee**

## **Agenda**

**Wednesday, 21st September, 2016**  
at 10.45 am or upon the rising of the 10.00am  
Hearing – whichever is the later

in the

**Committee Suite  
King's Court  
Chapel Street  
King's Lynn  
PE30 1EX**

**For Premises: The Rathskeller, Hanse House, South Quay, King's Lynn, PE30  
5GN**



If you require parts of this document in another language, large print, audio, Braille or any alternative format please contact the Council Information Centre on 01553 616200 and we will do our best to help.

#### **LATVIAN**

Ja Jums nepieciešamas daļas no šī dokumenta citā valodā, lielā drukā, audio, Braila rakstā vai alternatīvā formātā, lūdzu, sazinieties ar Padomes informācijas centru (Council Information Centre) pa 01553 616200 un mēs centīsimies Jums palīdzēt.

#### **RUSSIAN**

Если вам нужны части этого документа на другом языке, крупным шрифтом, шрифтом Брайля, в аудио- или ином формате, обращайтесь в Информационный Центр Совета по тел.: 01553 616200, и мы постараемся вам помочь.

#### **LITHUANIAN**

Jei pageidaujate tam tikros šio dokumento dalies kita kalba, dideliu šriftu, Brailio raštu, kitu formatu ar norite užsisakyti garso įrašą, susisiekite su Savivaldybės informacijos centru (Council Information Centre) telefonu 01553 616200 ir mes pasistengsime jums kiek įmanoma padėti.

#### **POLISH**

Jeśli pragną Państwo otrzymać fragmenty niniejszego dokumentu w innym języku, w dużym druku, w formie nagrania audio, alfabetem Braille'a lub w jakimkolwiek innym alternatywnym formacie, prosimy o kontakt z Centrum Informacji Rady pod numerem 01553 616200, zaś my zrobimy, co możemy, by Państwu pomóc.

#### **PORTUGUESE**

Se necessitar de partes deste documento em outro idioma, impressão grande, áudio, Braille ou qualquer outro formato alternativo, por favor contacte o Centro de Informações do Município pelo 01553 616200, e faremos o nosso melhor para ajudar.



**King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX**  
**Telephone: 01553 616200**  
**Fax: 01553 691663**

13<sup>th</sup> September 2016

Dear Member

**Licensing Committee**

You are invited to attend a meeting of the above-mentioned Panel which will be held on **Wednesday, 21st September, 2016 at 10.45 am** in the **Committee Suite, King's Court, Chapel Street, King's Lynn, Norfolk** to discuss the business shown below.

Yours sincerely

Chief Executive

**AGENDA**

- 1. Apologies for absence**  
To receive any apologies for absence.
- 2. 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.
- 3. Declarations of Interests**  
Please indicate if there are any interests which should be declared. A declaration of an interest should indicate the nature of the interest (if not already declared on the Register of Interests) and the agenda item to which it relates. If a disclosable pecuniary interest is declared, the member should withdraw from the room whilst the matter is discussed.
- 4. To consider a review application for The Rathskeller, Hanse House, South Quay, King's Lynn, PE30 5GN**

- a) **Procedure which will be followed at the Hearing** (Pages 5 - 8)
- b) **Report of the Licensing Manager** (Pages 9 - 52)

To:

**Licensing Committee:** Councillors Mrs S Buck, C J Crofts and M Hopkins

**Officers:**

John Gilbraith, Licensing Manager



# Procedure for Determining Licensing Act 2003 Cases

*The hearings will be held in public. The hearing is not adversarial but an examination of the facts by the Members of the Committee. All participants must be courteous at all times. All parties will be given equal maximum time i.e. normally 15 minutes each, in total. Any person may apply for longer time if they immediately notify the licensing authority upon receipt of the Notice of the Hearing and in exceptional circumstances, the licensing authority may extend the maximum time allowed to all parties if the complexity of the application demands. In the event that there are a large number of objections to a particular application, the licensing authority may ask an appropriate number of representatives or a single representative to put forward their views.*

## Introductions

1. The **Chairman** of the Committee should read out a statement declaring under which capacity the Committee is sitting.

**This Committee is sitting to consider a matter under the Licensing Act 2003.**

2. The **Chairman** will introduce himself and the Members of the Committee.
3. The **Chairman** will then introduce and explain the respective roles of
  - (i) the Democratic Services Officer
  - (ii) the Officer representing the Licensing Authority (i.e. Licensing Manager)
  - (iii) the Legal Advisor to the Committee
4. The **Chairman** should invite all those present to introduce themselves and ask them to indicate if they wish to speak during the hearing.
5. Each party will be asked by the **Chairman** whether 15 minutes is sufficient for the presentation of his/her/body's case. (Agreement on the length of time given for each speaker is at the discretion on the Chairman).

## The Application for Review of a Premises License

6. The **Legal Advisor** explains the procedure that will be followed at the hearing.
7. The **Officer representing the Licensing Authority** outlines the review application to the Committee by presenting the report referring to any relevant extracts from the Borough Council's Licensing Policy and any relevant Statutory Guidance.
8. The **Chairman** will invite questions from all parties to clarify the content of the Licensing Officer's report.

## The Applicant's Case

9. The **Chairman** then invites the Applicant or their representative to make their case. Witnesses may be called but each will be subject to separate questioning (see below).

## Questions

10. Once the Applicant has presented their case, the Chairman invites questions to the Applicant or his representative from
  - (i) The Officer representing the Licensing Authority
  - (ii) The respondent (or their representative)
  - (iii) Responsible Authorities (or their representative)
  - (iv) Other persons (or their representatives)
  - (v) Members of the Committee.

11. The Chairman will invite questions to the witnesses from the

- (i) The Officer representing the Licensing Authority
- (ii) The respondent (or their representative)
- (iii) Responsible Authorities (or their representative)
- (ii) Other persons (or their representatives)
- (iii) Members of the Committee.

Questions should be relevant to the application and repetition will be discouraged.

### **The Respondent's Case**

12. The **Chairman** then invites the respondent or their representative to make their case. Witnesses may be called but each will be subject to separate questioning (see below).

### **Questions**

13. Once the respondent has presented their case, the **Chairman** invites questions to the respondent or their representative from the

- (i) The Officer representing the Licensing Authority
- (ii) The applicant (or their representative)
- (iii) Responsible Authorities (or their representative)
- (iii) Other persons (or their representatives)
- (iv) Members of the Committee.

14. The **Chairman** will invite questions to the witnesses from the

- (i) The Officer representing the Licensing Authority
- (ii) The applicant (or their representative)
- (iii) Responsible Authorities (or their representatives)
- (iii) Other persons (or their representatives)
- (iv) Members of the Committee.

### **Responsible Authorities**

15. The **Chairman** then invites Responsible Authorities or their representative to make their case. Witnesses may be called but each will be subject to separate questioning (see below).

### **Questions**

16. Once the Responsible Authorities have presented their case, the **Chairman** invites questions to the them or their representative from

- (i) The Officer representing the Licensing Authority
- (ii) The applicant (or their representative)
- (iii) The respondent (or their representative)
- (iv) Any other Responsible Authorities (or their representative)
- (v) Other persons (or their representative)
- (vi) Members of the Committee.

17. The **Chairman** will invite questions to the witnesses from the

- (i) The Officer representing the Licensing Authority
- (ii) The applicant (or their representative)
- (iii) The respondent (or their representative)
- (iv) Any other Responsible Authorities (or their representative)
- (ii) Other persons (or their representatives)
- (iii) Members of the Committee.

Questions should be relevant to the application and repetition will be discouraged.

## Other Persons

18. Each of the other persons or their representatives wishing to address the Committee may do so in an order determined by the **Chairman**. They too must be willing to be questioned by other parties in the same order. Other persons may not however question each other. Questions should be relevant to the application and repetition will be discouraged.

This will operate as follows:

- each party will present his/her/body's case
  - each party's witnesses (if any) will give evidence in support of the party's case
  - firstly, each party and, secondly, their witnesses may be questioned by other parties, prior to questioning by Members of the Committee.
19. The Officer representing the Licensing Authority, the applicant (or their representative), the respondent (or their representative) and Responsible Authorities (or their representatives) will be invited to ask relevant questions of those parties (or the parties' representatives).

## Summing Up

20. The **Chairman** then invites the Officer representing the Licensing Authority to sum up their case. They may comment upon what has been said but no new evidence should be introduced. Each party will be allowed 5 minutes to sum up.
21. The **Chairman** then invites the respondent (or their representative) to sum up their case. They may comment upon what has been said but no new evidence should be introduced. Each party will be allowed 5 minutes to sum up.
22. The **Chairman** then invites the Responsible Authorities (or their representatives) to sum up their case. They may comment upon what has been said but no new evidence should be introduced. Each party will be allowed 5 minutes to sum up.
23. The **Chairman** then invites the other persons (or their representatives) to sum up their case. They may comment upon what has been said but no evidence should be introduced. Each party will be allowed 5 minutes to sum up.
24. The **Chairman** then invites the applicant (or their representative) to sum up their case. They may comment upon what has been said but no new evidence should be introduced. They also will be allowed 5 minutes to sum up.

## Reaching and Making a Decision

25. **The Chairman** will ask the Council's Legal Advisor to address the Committee on any outstanding matters.
26. The **Chairman** will then thank all those who have spoken and invite the Committee to retire to consider the application, accompanied by the Legal Advisor and Democratic Services Officer (who will take no part in the decision).
27. The Committee will then debate the case presented to them at the hearing and will seek to reach a decision and reasons for their decision.
28. Once a decision has been made, **the Chairman** will invite the **Legal Advisor** to announce in public any legal advice he/she has given in private.
29. **The Chairman** will read out the decision and the reasons for the decision (unless the Committee is unable to reach a determination at the conclusion of the hearing).
30. **The Chairman** will explain that all parties will be notified of the outcome of the decision and reasons for the decision in writing.<sup>7</sup>

31. If the Committee is unable to reach a decision, the **Chairman** will explain that all parties will be notified as soon as possible (but within 5 working days) of the decision and the reasons for such.

#### **NOTE**

A decision may be deferred to:-

1. Receive further documentation referred to in the meeting
  2. Enable a site visit to take place
  3. Invite the Applicant or his representative to appear if they had not done so at the meeting (only once)
- No further debate may be heard on further documentation or at a site visit
  - Adjournments should generally be granted if to refuse would deny applicant a fair hearing.

# Borough Council of King's Lynn & West Norfolk

## Report to Licensing Sub-Committee under the Licensing Act 2003

Date of Hearing: 21<sup>st</sup> September 2016

### Application for Review of a Premises Licence

- The Rathskeller, Hanse House, South Quay, King's Lynn, PE30 5GN
- Licence Holder: Mr James Kenneth Lee
- Premises Licence Number WNPL009494

### Introduction

1. At any stage, following the grant of a premises licence, a 'responsible authority' or 'other person' may apply to the licensing authority to review the premises licence because of matters arising at the premises in connection with any of the four licensing objectives. These four licensing objectives are:

- the prevention of crime & disorder,
- public safety,
- the prevention of public nuisance, and
- the protection of children from harm

### Current Premises Licence

2. The current premises licence for The Rathskeller was granted on the 22<sup>nd</sup> March 2013. A copy of this licence is attached to this report at Appendix 1 and shows the times and activities authorised along with the licence conditions.

### The Review Application

3. Ms Karen Watling has made an application to review the premises licence for the Rathskeller under 'the prevention of public nuisance' licensing objective. A copy of the review application and supporting evidence is attached at Appendix 2.

### Representation from Responsible Authorities

*Section 13(4) of the Act defines the 'Responsible Authorities' as the statutory bodies that must be sent copies of an application.*

4. CS&NN, as a responsible authority has made a representation in support of the review application. A copy of their letter dated 30<sup>th</sup> August 2016 is attached at Appendix 3.

5. There are no representations from the remaining responsible authorities, namely:

<u>Responsible Authority</u>	<u>Comments Received</u>
Norfolk Constabulary	None
Norfolk Fire Service	Whilst the Fire Service are not making representations they have reminded the licence holder that the maximum number of people permitted on the premises at any one time is 60 persons.

<u>Responsible Authority</u>	<u>Comments Received</u>
Norfolk Trading Standards	None
Norfolk Safeguarding Children's Board	None
Public Health	None
Planning (BCKLWN)	None
Health & Safety (BCKLWN)	None
Licensing Authority (BCKLWN)	None

### **Representations from 'Other Persons'**

*As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business that are entitled to make representations to applications. Representations made must relate to the licensing objectives.*

6. There are six representations from 'other persons' in support of the review application to consider. Copies of these representations are attached to this report at Appendix 4.

### **Notices**

7. The Borough Council is responsible for advertising a review application by way of a notice in a specified form at the premises and on the Borough Council's website. This notice has to be displayed for 28 consecutive days and should have been displayed on the premises between the 2<sup>nd</sup> and 30<sup>th</sup> August 2016. A copy of the notice was also displayed at the Council offices for the same period.

### **Plans**

8. A location map is attached at Appendix 5 showing the general location of The Rathskeller and other persons making representations.

### **Borough Council of King's Lynn & West Norfolk's Licensing Policy**

9. The current Statement of Licensing Policy was approved by full Council on the 26<sup>th</sup> November 2015 and the following extracts may be relevant to this application:

#### **3.0 Fundamental principles**

3.1 The 2003 Act requires that the Council carries out its various licensing functions so as to promote the following four licensing objectives:

- (a) the prevention of crime and disorder,
- (b) public safety,
- (c) the prevention of public nuisance, and
- (d) the protection of children from harm.

3.2 Nothing in this 'Statement of Policy' will:

- (a) undermine the right of any individual to apply under the terms of the 2003 Act for a variety of permissions and to have any such application considered on its own merits;
- (b) override the right of any person to make representations or to seek a review of a licence.

## **7.0 Review Process**

- 7.1 The review process represents a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence. At any stage, following the grant of a premises licence, a responsible authority, or an interested party, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 7.3 In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. After a licence or certificate has been granted or varied, a complaint relating to a general (crime and disorder) situation in a town centre should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 7.4 The Borough Council recognises that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation. It is good practice for authorised persons and responsible authorities to give licence holder's early warning of their concerns about problems identified at the premises concerned and of the need for improvement. A failure to respond to such warnings is expected to lead to a decision to request a review.
- 7.5 Where the request originates from other persons – e.g. a local resident, residents' association, local business or trade association – the Borough Council will first consider whether the complaint made is relevant, vexatious, frivolous or repetitious.

### **Guidance Issued Under Section 182 of the Licensing Act 2003**

*Under Section 4 of the Act, Licensing Authorities must have regard to guidance issued under Section 182. The current Guidance was issued by the Home Office in March 2015 and offers advice to Licensing authorities on the discharge of their functions under the Act.*

10. The following extracts may be relevant to this application and assist the Licensing Sub-Committee:

#### **Licence 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, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);
- 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.

### **Public nuisance**

2.14 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.

2.15 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.

2.16 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 and its licensable activities. 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 expensive to purchase and install and are likely to be a considerable burden for smaller venues.

- 2.17 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.
- 2.18 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 11 pm and 8 am. 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 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.

### **The review process**

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

#### **Powers of a licensing authority on the determination of a review**

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives.

In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

### **Regulated Entertainment**

15.6 As a result of deregulatory changes that have amended the 2003 Act, no licence is required for the following activities:

- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Live music: no licence permission is required for a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
- a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
- Recorded Music: no licence permission is required for any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.

### **Live music**

15.26 Live music is licensable:

- where a performance of live music – whether amplified or unamplified – takes place before 08.00 or after 23.00 on any day;
- where a performance of amplified live music does not take place either on relevant licensed premises, or at a workplace that is not licensed other than for the provision of late night refreshment;
- where a performance of amplified live music takes place at a time when the relevant licensed premises are not open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;

- where a performance of amplified live music takes place at relevant licensed premises, or workplaces, in the presence of an audience of more than 500 people; or
- where a licensing authority intentionally removes the effect of the deregulation provided for by the 2003 Act when imposing a condition on a premises licence or club premises certificate as a result of a licence review.

### **Key terms used in relation to live music**

15.30 Under the live music provisions, “music” includes vocal or instrumental music or any combination of the two. “Live music” is a performance of live music in the presence of an audience which it is intended to entertain. While a performance of live music can include the playing of some recorded music, ‘live’ music requires that the performance does not consist entirely of the playing of recorded music without any additional (substantial and continual) creative contribution being made. So, for example, a drum machine or backing track being used to accompany a vocalist or a band would be part of the performance of amplified live music. The performance of a DJ who is merely playing tracks would not be classified as live music, but it might if he or she was performing a set which largely consisted of mixing recorded music in a live performance to create new sounds. There will inevitably be a degree of judgement as to whether a performance is live music (or recorded music) and organisers of events should check with their licensing authority if this consideration is relevant to whether the activity is authorised by a licence or certificate. In the event of a dispute about whether a performance is live music or not, it will be for the licensing authority initially and ultimately, for the courts to decide in the individual circumstances of any case.

15.32 A “relevant licensed premises” for the purposes of this chapter is one which is authorised to sell or supply alcohol for consumption on the premises by a premises licence or club premises certificate. Premises cannot benefit from the deregulation introduced by the 2012 Act by virtue of holding an authorisation for the sale or supply of alcohol under a TEN.

### **Recorded music**

15.33 No licence is required for recorded music where it takes place on premises which are authorised by a premises licence or club premises certificate to be used for the supply of alcohol for consumption on the premises. However, recorded music remains licensable:

- where the playing of recorded music takes places before 08.00 or after 23.00 on any day;
- where the playing of recorded music takes place at a time when the relevant licensed premises are not open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;

- where the playing of recorded music takes place at relevant licensed premises in the presence of an audience of more than 500 people; and
- where a licensing authority intentionally removes the effect of the deregulation provided for by the 2003 Act (as amended).

### **Plays and dance**

15.34 No licence is required for a performance of a play or dance to the extent that certain qualifying conditions are satisfied. However a performance of a play or dance remains licensable:

- where the performance takes places before 08.00 or after 23.00 on any day; or
- where the performance takes place in the presence of an audience of more than 500 people.

### **Licence conditions - Live Music or recorded music**

15.36 Any existing licence conditions (or conditions added on a determination of an application for a premises licence or club premises certificate) which relate to live music or recorded music remain in place, but are **suspended** between the hours of 08.00 and 23.00 on the same day where the following conditions are met:

- at the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;
- if the music is amplified, it takes place before an audience of no more than 500 people; and
- the music takes place between 08.00 and 23.00 on the same day.

15.37 Whether a licence condition relates to live or recorded music will be a matter of fact in each case. In some instances, it will be obvious that a condition relates to music and will be suspended, for example “during performances of live music all doors and windows must remain closed”. In other instances, it might not be so obvious: for example, a condition stating “during performances of regulated entertainment all doors and windows must remain closed” would be suspended insofar as it relates to music between 08.00 and 23.00 on the same day to an audience of up to 500, but the condition would continue to apply if there was regulated entertainment after 23.00.

15.38 More general licence conditions (e.g. those relating to overall management of potential noise nuisance) that are not specifically related to the provision of entertainment (e.g. signage asking patrons to leave quietly) will continue to have effect.

15.39 Chapter 9 of this Guidance sets out how a licensing authority must determine applications for a new licence or to vary an existing premises licence. Licence conditions imposed, in accordance with paragraphs 9.41 to 9.43, for live or recorded music activities will only apply if the



activity meets the criteria of having more than 500 people present, and/or the activities are taking place between 23.00 and 08.00.

- 15.40 These conditions will, in effect, be suspended between 08.00 and 23.00 if a performance of live music or the playing of recorded music takes place before an audience of 500 people or fewer, but will remain on the face of the licence for when these activities may take place under other circumstances.
- 15.41 Where a performance of live music or the playing of recorded music on relevant licensed premises is not licensable, it remains possible for anyone to apply for a review of a licence or certificate, if there are appropriate grounds to do so.

### **Conditions relating to other non-licensable activities**

- 15.52 If appropriate for the promotion of the licensing objectives, and if there is a link to remaining licensable activities, conditions that relate to non-licensable activities can be added to or altered on that premises licence or club premises certificate at review following problems occurring at the premises. This has been a feature of licence conditions since the 2003 Act came into force. A relevant example could be the use of conditions relating to large screen broadcasts of certain sporting events which, combined with alcohol consumption, could create a genuine risk to the promotion of the licensing objectives. It is also not uncommon for licence conditions relating to the sale of alcohol to restrict access to outside areas, such as unlicensed beer gardens, after a certain time.
- 15.53 Similarly, while karaoke no longer needs licensing as the provision of entertainment facilities<sup>68</sup> (and will generally be classed as a performance of live music<sup>69</sup>) it might, for example, be possible on review to limit the use or volume of a microphone made available for customers on an 'open-mic' night (which encompasses more than just live music), if a problem had occurred because of customers purchasing alcohol for consumption on the premises becoming louder and less aware of causing noise nuisance later in the evening. Another example might be a condition restricting access to a dance floor at certain times, where the presence of customers in close proximity who had been consuming alcohol on the premises had led to serious disorder. In the first instance it is for the licensing authority to satisfy itself that a particular condition is appropriate and lawful in each case.

### **Removing licence conditions**

- 15.54 A licence holder who wishes to remove conditions relating to activities that are no longer licensable may apply to the licensing authority for a licence variation. In the course of considering such applications, licensing authorities should remove such conditions unless there are sufficiently serious and specific concerns about the effects of hosting deregulated entertainment activities along with the remaining licensable activities taking place in the premises.

### **Licence reviews: Live and recorded music**

15.55 On a review of a premises licence or club premises certificate, section 177A(3) of the 2003 Act permits a licensing authority to lift the suspension and give renewed effect to an existing condition relating to music. Similarly, under section 177A(4), a licensing authority may add a condition relating to music as if music were regulated entertainment, and as if that premises licence or club premises certificate licensed the music. In both instances the condition should include a statement that Section 177A does not apply to the condition.

15.56 An application for a review in relation to relevant premises can be made by a licensing authority, any responsible authority or any other person. Applications for review must still be relevant to one or more of the licensing objectives and meet a number of further requirements.

### **Hearings**

9.36 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.

9.38 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety.

### **Determination**

11. Having regard to the review application, the Licensing Sub-Committee are requested to consider this report and any submissions submitted by the licence holder and those making representations and take such steps as it considers appropriate for the promotion of the licensing objectives. These steps are:

- (a) To do nothing;
- (b) To modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times. This could also include lifted the suspension of conditions by virtue of the Live Music Act;



- (c) To exclude a licensable activity from the scope of the licence, for example, to exclude the sale of alcohol or provision of late night refreshment;
- (d) To remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- (e) To suspend the licence for a period not exceeding three months;
- (f) To revoke the licence.

Under Section 52(6) of the Licensing Act 2003 if the Sub-Committee takes a step mentioned in paragraph 11(b) or 11(c) above it may provide that the modification or exclusion is to have effect for only such a period (not exceeding three months) as it may specify.

12. The Sub-Committee are reminded that full reasons for its decision must be given as all parties have a right of appeal against that decision to the Magistrates' Court. Such an appeal must be made within 21-days beginning with the day on which the parties are notified by the Borough Council of the decision which is being appealed.

**John Gilbraith**

Licensing Manager

Environmental Health - Licensing

9<sup>th</sup> September 2016

Appendixes:

1. Copy of Current Premises Licence.
2. Copy of Review Application dated 29<sup>th</sup> July 2016.
3. CS&NN letter dated 30<sup>th</sup> August 2016.
4. Representations from 'other persons'.
5. Location Plan.

Background Papers:

1. The Licensing Act 2003
2. Borough Council's Statement of Licensing Policy (26 November 2016)
3. Guidance issued under Section 182 of the Licensing Act 2003 (March 2015)

# LICENSING ACT 2003 PREMISES LICENCE

Appendix 1 to  
Report to Licensing Sub-Committee  
Re: The Rathskeller, King's Lynn  
Dated 9th September 2016

## LICENSING AUTHORITY

Borough Council of  
**King's Lynn &  
West Norfolk**



Environmental Health – Licensing  
Kings Court  
Chapel Street  
Kings Lynn  
Norfolk  
PE30 1EX  
Tel: 01553 616200  
Fax: 01553 691663  
Web: [www.west-norfolk.gov.uk](http://www.west-norfolk.gov.uk)  
Email: [ehlicensing@west-norfolk.gov.uk](mailto:ehlicensing@west-norfolk.gov.uk)

### Part 1 – Premises Details

## The Rathskeller, 2 Hanse House

South Quay  
King's Lynn  
Norfolk  
PE30 5GN

Telephone Number:

Where the Licence is time limited the dates:

Not applicable

### Licensable Activities authorised by the licence:

- the sale of alcohol by retail;
- The provision of regulated entertainment; and
- The provision of late night refreshment.

### The times the licence authorises the carrying out of licensable activities:

#### Regulated Entertainment

Live Music (Indoors and Outdoors)	<u>From</u>	<u>To</u>
Sunday to Thursday:	10:00	23:00
Friday and Saturday:	10:00	00:00
New Year's Eve:	10:00	01:00

Recorded Music (Indoors and Outdoors)	<u>From</u>	<u>To</u>
Sunday to Thursday:	10:00	23:00
Friday and Saturday:	10:00	00:00
New Year's Eve:	10:00	02:00

The Sale of Alcohol by Retail	<u>From</u>	<u>To</u>
Monday to Thursday:	10:00	00:00
Friday to Sunday:	10:00	01:00
New Year's Eve:	10:00	02:00

Provision of late night refreshment (Indoors)	<u>From</u>	<u>To</u>
Monday to Thursday:	23:00	00:00
Friday to Sunday:	23:00	01:00
New Year's Eve:	23:00	02:00

**The opening hours of the premises:**

Monday to Thursday:	08:30 - 00:30
Friday to Sunday:	08:30 - 01:30
New Year's Eve:	08:30 - 02:30

**Where the licence authorises supplies of alcohol whether these are on and /or off supplies:**

Alcohol is supplied for consumption both **ON** and **OFF** the Premises

Part 2

**Name, (registered) address, telephone number and email (where relevant) of holder of premises licence:**

Mr James Kenneth Lee  
[REDACTED]

**Registered number of holder, for example company number, charity number (where applicable)**

n/a

**Name address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol:**

Mr James Kenneth Lee  
[REDACTED]

**Personal Licence number and issuing authority of Personal Licence held by Designated Premises Supervisor (where the premises authorises for the supply of alcohol):**

<b>Personal licence Number:</b>	Licence Number: WNPA010220
<b>Licensing Authority:</b>	Licensing Authority: Kings Lynn And West Norfolk

**Environmental Health Manger (Commercial)**

**Original Issue date of Premises Licence: 25th March 2013**

**Date of last change: 10th February 2016**

**ANNEX 1 – MANDATORY CONDITIONS**

1. Under Section 19(2) of the Licensing Act 2003, no supply of alcohol shall be made under this 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 his personal licence is suspended.
2. Under Section 19(3) of the Licensing Act 2003 every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. 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. 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 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 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).
4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
5. The premises licence holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol. 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. 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 holographic mark, or an ultraviolet feature.
6. The responsible person must ensure that 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:
  - (a) beer or cider: ½ pint;
  - (b) gin, rum, vodka or whisky: 25ml or 35ml; and
  - (c) still wine in a glass: 125ml;

These measures must be displayed in a menu, price list or other printed material which is available to customers on the premises and if 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.

7. 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. For the purposes of this condition 'duty' is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; 'permitted price' is the price found by applying the formula -  $P = D + (D \times V)$  where; P is the permitted price; D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol; and V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol. A 'relevant person' means the

holder of the premises licence, the designated premises supervisor (if any) in respect of such a licence, or the personal licence holder who makes or authorises a supply of alcohol under such a licence. 'Valued added tax' means value added tax charged in accordance with the Value Added Tax Act 1994.

The permitted price must be rounded up to the nearest penny.

A change to the permitted price which would apply as a result of a change to the rate of duty or VAT charged in relation to alcohol would not apply until the expiry of the period of 14 days beginning on the day on which the change in the rate of duty or VAT takes effect.

#### **ANNEX 2 – CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

8. The area immediately surrounding the premises shall be cleared of all waste at the end of the trading day and disposed of in a container appropriate for the storage of such items.

9. Provisions for regulated entertainment outdoors in the inner court yard shall only be permitted from 1000hrs to 2200hrs Monday to Saturdays and at no times on Sunday.

10. Within 28 days from the start date of the licence, a detailed noise management plan shall be submitted to and agreed by the CSNN team from the Borough Council of King's Lynn and West Norfolk (BCKLWN). The noise management plan shall include an agreed noise level that shall be measured between the hours of 2300 and 2400 hours on a Friday or Saturday night and shall be expressed as an LAeq 5min at monitoring locations agreed by the BCKLWN

#### **ANNEX 3 – CONDITIONS ATTACHED AFTER A HEARING**

11. A prominent clear notice shall be displayed at all exits requiring customers to respect the needs of local residents and leave the premises and are quietly.

#### **ANNEX 4 – AUTHORISED PLANS**

As attached.



# Licensing Act 2003

Application for the review of a premises licence

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

01 AUG 2016  
 J. SECKER  
 POSTAL ADMIN

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.

Once completed, send your **original** application to:

- **The Licensing Team**, Environmental Health & Housing , Borough Council of King's Lynn and West Norfolk, King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX.

and **copies** to the following:-

- **Norfolk Constabulary Licensing Team**, Bethel Street Police Station, Bethel Street, Norwich, Norfolk, NR2 1NN.
- **Fire Safety Office**, Norfolk Fire Service Western Area, Kilhams Way, King's Lynn, PE30 2HY
- **Norfolk Children's Safeguarding Board**, Room 60, Lower Ground, County Hall, Martineau Lane, Norwich NR1 2DH
- **Consumer Operations Manager, Norfolk County Council Trading Standards**, County Hall, Martineau Lane, Norwich, Norfolk, NR1 2UD
- **Development Services**, Borough Council of King's Lynn and West Norfolk, King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX
- **Health & Safety**, Environmental Health & Housing , Borough Council of King's Lynn and West Norfolk, King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX
- **Community Safety & Neighbourhood Nuisance**, Environmental Health & Housing , Borough Council of King's Lynn and West Norfolk, King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX
- **Public Health Director**, Norfolk County Council, County Hall, Martineau Lane, Norwich, NR1 2DH
- The premises at the premises to which the application relates

**I Karen Watling**

Apply for the review of a premises licence under section 51 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	
Rathskeller Hanse House South Quay	
Post town Kings Lynn	Post code (if known) PE30 5GN



**Name of premises licence holder or club holding club premises certificate (if known)**

Mr James Kenneth Lee

**Number of premises licence or club premises certificate (if known)**

Rathskeller licence number WNPL009494

**Part 2 - Applicant details**

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates (please complete (A) below)

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

Please tick ✓ yes

Mr  Mrs  Miss  Ms

Other title  
(for example, Rev)

**Surname**

Watling

**First names**

Karen

I am 18 years old or over

Please tick ✓ yes

**Current postal address if different from premises address**

**Post town**

**Daytime contact telephone number**

**E-mail address (optional)**



**(B) DETAILS OF OTHER APPLICANT**

Name and address
Telephone number (if any)
E-mail address (optional)

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address
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
  - 2) public safety
  - 3) the prevention of public nuisance
  - 4) the protection of children from harm

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

The grounds for review relate to the licensing objective “the prevention of public nuisance” as indicated above. The reasons for requesting a review are as follows:

- 1) Breach of Licensing Sub-Committee’s requirement relating to the establishment of agreed noise levels and monitoring locations.
- 2) Inadequate response to Licensing Sub-Committee’s requirement to produce a detailed Noise Management Plan.
- 3) Changed operating intentions to those stated at the Licensing Sub-Committee (with regards to music events and the operation of the bar).
- 4) Frequent poor premises management (with regards to the controlling of noise from music events) and lack of appropriate sound insulation.

### Background

The BCKLWN Licensing Sub-Committee agreed two regulated entertainment licences for the premises at its meeting on 22<sup>nd</sup> March 2013. (Hanse House WN009493 and the Rathskeller WNPL009494). The building is licensed for regulated music as follows:

Open air inner court yard	10.00 to 22.00 Monday to Saturday only (not Sunday) in line with planning restrictions
Monday to Thursday	10.00 to 23.00
Friday and Saturday	10.00 to 24.00
Sunday	10.00 to 23.00

Both of the current licences include the following conditions/requirements agreed by the Licensing Sub-Committee:

- “The applicant to provide a detailed noise management plan within 28 days from the start of the licence and for it to be agreed by the CSNN Team from the Borough Council”.
- “The noise management plan would include an agreed noise level that would be measured between the hours of 2300 and 2400 on a Friday or Saturday night and would be expressed as a LAeq5min at monitoring locations agreed by the Council”.

There are several areas within the premises that are used for regulated entertainment:

- Open-air inner court yard (to-date used only once for a live band).
- External car park area located along the Quayside (used for special functions requiring a Temporary Event Notice for example October Beer festival when a live band played).
- Undercroft bar located in the North range of Hanse House (used for regular Friday and/or Saturday night live music and other events advertised and open to the general public).
- Reception/function room located on the first floor in the South Range of Hanse House alongside St Margaret’s Lane (used for private functions/discos – although this room has now not been used for amplified music events for several months).
- Reception/function room located on the first floor in the North range of Hanse House (used for private functions/discos).

### Nature of the immediate locality

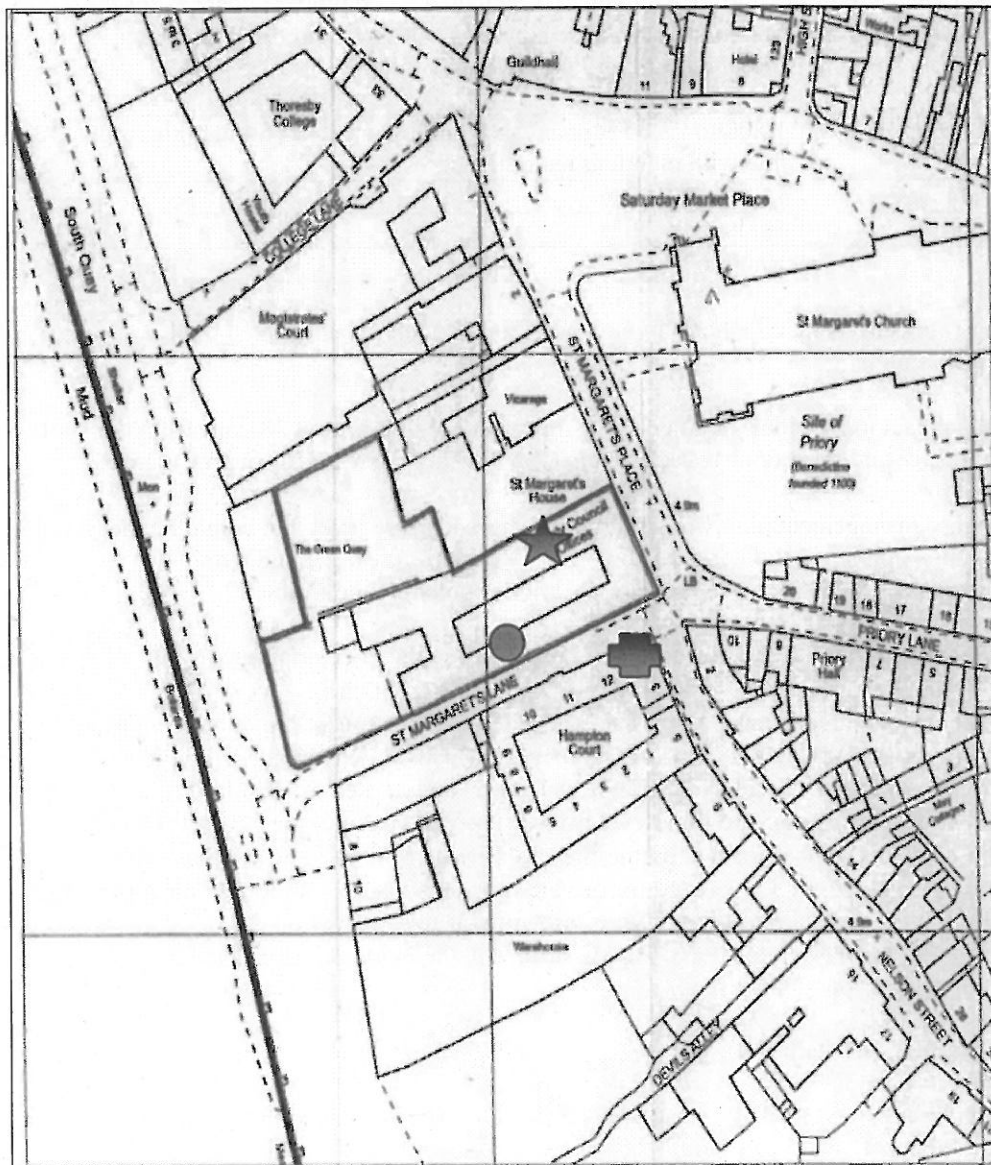
Hanse House (including the Rathskeller bistro and undercroft bar) is situated in a primarily residential area (although there is not a high density of homes) within the St Margaret’s Conservation Area.

Hanse House is located in close proximity of people's homes:

- The 1<sup>st</sup> floor South Range function room is immediately opposite my godmother's kitchen/dining room at approximately 5 meters away (8 Hampton Court) and approximately 15m away from my apartment.
- The location of the 'stage' where live bands play in the undercroft bar is some 20m in a straight line away from my bedroom window.
- The 1<sup>st</sup> floor North Range function / reception room is similarly some 20m away from my home.

An annotated street map of the area is shown below:

- Location of my apartment, 1 Nelson Street
- Location of St Margaret's Lane (SML) South Range reception/function room
- ★ Location of stage area for live bands in the Undercroft Bar and North Range first floor function room



My apartment, 1 Nelson Street, is located on the first and second (top) floors at the corner of Nelson Street and Saint Margaret's Lane. I bought it in July 2012 before the BCKLWN's Licensing Sub-Committee granted the regulated entertainments licence. The apartment has single glazing to the windows, is of single room depth with the length of the rooms lying parallel to St Margaret's Lane, and dates from the latter part of the 15<sup>th</sup> century. Most of the homes located alongside St. Margaret's Lane are one-depth properties, meaning there is nowhere to go to when noise occurs from Hanse House.

Noise during the working week all around this area is minimal, and on Friday and Saturday nights noise levels, apart from Hanse House, fall dramatically after 23.00 hours. There is little or no noise generated in the area from other sources, the exceptions being:

- Occasional noise from events at the Town Hall located on the Saturday Market Place.
- Very loud music from the former Wennis pub (closed now from July 2015).
- Periodic music (as experienced at my location) from the Worker's Social Club in Church Street.
- Noise from people sitting in the summer months at tables in front of the Marriott's restaurant located next door to the Hanse House.

#### **Noise Nuisance experienced and personal impact**

Most of the activities undertaken within the Hanse House building by the current management create little or no noise disturbance (i.e. the Tearoom & Indoor Market, the Bistro, the provision of drinks in the undercroft bar, commercial offices, civic wedding ceremonies, and special events held during the day time).

The noise nuisance I and some of my neighbours are experiencing arises from the **amplified** live/recorded music played either:

- at the regular, almost weekly, live band events in the public undercroft bar, and/or
- at ad-hoc private functions (e.g. discos for birthdays, wedding receptions etc.) held in the two reception rooms noted above.

There are also noise issues of associated late night disturbance as people arrive/leave the premises and walk down St Margaret's Lane and, during the summer months, the noise of people drinking at outside tables at the quayside entrance of the Hanse House. In addition my neighbours recently experienced very loud disturbing noise from a live band playing outside in the inner court yard (13/7/16).

A log giving dates, timings and other notes of the noise nuisance I have experienced is given in the next section of the review application.

Noise occurs mostly at weekends, predominantly on Saturdays, and has been ongoing over the last 2.5 years from Saturday 1<sup>st</sup> March 2014. Based on experiences during 2015 and from earlier this year, noise is more frequent and louder over summer months and in December. The time of night when I become aware of noise varies but there is a definite trend of it becoming disturbing and louder at around 23.00.

The noise is always louder in my second floor bedroom and this fact has been agreed by the CSNN officers who have visited my property and additionally by a couple of sound level measurements I have taken from an apple application loaded onto my iPad. These readings, whilst not totally accurate, give an indication of the levels being experienced.

On Saturday 26<sup>th</sup> March 2016, the noise levels recorded from a live band playing in the Hanse House undercroft bar (when three of the bar windows were open) were:

- From St Margaret's Lane: 58 average, frequent peaking to 72.
- From my bedroom with my window shut: 54 average, frequent peaking to 72.
- From my bedroom with my window open: 64 average, frequent peaking to 84.

Information from sound level comparison sites such as <http://www.stac-uk.com/downloads/Noise%20Levels.pdf>, show that 60 DBA is the level of "normal conversation", 70 DBA can be compared to the sound level of a TV, and 80 DBA is the sound of a telephone. The ambient background noise of a quiet urban residential area is some 40 DBA.

The South Range of the Hanse House Building, located alongside St Margaret's Lane, is deflecting the path of sound waves produced by a band or disco located in the North Range of the building, so that a quieter 'shadow' area is produced at street level whilst the sound waves at higher heights are virtually unimpeded. This is why the noise is louder in my second floor bedroom than in my first floor living room or in the actual street itself.

In addition, many of the live bands performing at the Hanse House use electric amplified instruments and are reliant on the rhythm played by bass guitars and drumming in contrast for example, to many acoustic bands and traditional folk groups. This means that the live bands give rise to a lot of low frequency sound manifesting as a pulsing beat. Low frequency sound (such as bass sound) travels further than high frequency sound (lead guitar and vocals) as low frequencies have significant energy levels, cannot easily be stopped by walls, and are able and do vibrate walls in sympathy with the rhythm, as well as 'wrap around' objects in their path.

Whilst I am not the only resident experiencing the noise nuisance, I am impacted more as I am the only Hampton Court resident facing Hanse House in St Margaret's Lane with occupied accommodation on the second (under eaves) floor. In addition, I am the youngest resident and have not yet suffered any loss of hearing often associated with increasing years.

The predominant impact of the noise nuisance is an inability to go to sleep until the music has finished and therefore some resultant stress over an extended period of time which is causing some health issues (as a Type 1 diabetic, stress and not being able to go to sleep when one is naturally tired causes my blood pressure and sugar levels to rise).

I work as a contractor mostly in the London area and use my home primarily at weekends and in-between contracts. I am often very reluctant to come home just for the nights of Friday and Saturday as I do not know if I can go to sleep at the time of my own choosing. Instead I have often stayed at my place of work (and have booked extra nights in a hotel or a rented apartment).

In addition, the noise nuisance means that in summer I am unable to open my windows to get any ventilation. The upstairs bedroom in particular can get very hot and stuffy because it is at the top of the building and is located in the inverted V shape of the roof rafters.

#### **Reasons for requesting a review of the regulated entertainments licence on the grounds of preventing public nuisance**

1. Breach of Licensing Sub-Committee's requirement relating to the establishment of agreed noise levels and monitoring locations

The Licensing Sub-Committee made it a requirement that the Noise Management Plan would include agreed noise levels and monitoring locations. Despite this requirement the current Plan submitted by Mr James Lee and agreed by the CSNN Team does not include these.

A FOI (Freedom of Information) request submitted by myself on 23/11/15 asked the Council



whether noise levels and monitoring locations had been submitted by Mr James Lee and subsequently agreed by the CSNN Team. A Legal Assistant at East Law replied on 5/2/16 as follows: "In respect of point 2, no noise management levels have been agreed. They are not contained within the Noise Management Plan or other documents held by the Council".

2. Inadequate response to Licensing Sub-Committee's requirement to produce "a *detailed* Noise Management Plan" (my italics and bold text)

The Licensing subcommittee made it a requirement that the applicant had to produce a Noise Management Plan, to be agreed by the CSNN Team, within 28 days of the license being awarded. This was in fact undertaken.

However, the current agreed Noise Management Plan has little to say about mitigating potential noise from music events: instead the measures cover entry and exit of the premises, outside smoking areas, air conditioning, and waste disposal. It does include the need for management to undertake "periodic external monitoring of the noise at specific locations when live/amplified music events are taking place" and for the management to "co-operate fully with the CSNN Team".

I contend that the agreed Noise Management Plan is inadequate as it does not address noise nuisance to local residents arising from the frequent music events being held.

I contend that my view of the inadequacy of the current noise management plan is now also held by the CSNN Team at the Borough Council. My reasons for this are as follows:

- Upon asking for a copy of the Noise Management Plan, a Senior CSNN Officer, told me via email (23/4/15) that s/he had not sent me the Plan because "...they have not submitted a plan that I am happy to approve yet. I did receive a plan from them that did not have the level of detail required and I contacted them with an example plan and some detailed suggestions."
- On 28/4/15 I was told "It has now transpired that a plan was formally submitted and approved by my colleague at the time of application. The said colleague has now left the authority and had unfortunately not attached the document to our records and so we had no record of it. I have requested that, as good practice, they consider reviewing the plan so that it accurately reflects the use of the business now they have had time to settle in and make clear decisions about what they do and do not intend to provide in terms of regulated entertainment. I can only request this review as the plan was approved at the time which is what the (Licensing) condition required."
- An email dated 30/4/15 from a senior CSBB Officer stated: "...I will be pursuing the issue of the noise management plan as I believe that a review of it is necessary so that it reflects what they currently provide. I can't insist on this but due to the receipt of complaints I can put pressure on for this to happen".

3. Changed operations from those stated at the Licensing Sub Committee

I did not attend the Licensing Sub-Committee on 22/3/13. In fact I was unaware of the redevelopment of Hanse House until Heritage Open Day in September 2013 when the building was open to the public and an exhibition board about the redevelopment was on display. I talked to a female Hanse House representative about the proposals and the potential for noise/disturbance and remember her response being along the lines of that this would not happen as the bar would be an 'upmarket wine bar'.

The evidence I present here therefore has been gained via a reading of the Licensing Sub Committee minutes and other documents.

Whilst not part of the licensing process, the minutes of the Hanse House Accessibility Consultation meeting, held on 3/7/12 as part of the planning process, are interesting because they show management's intentions at that time. The minutes state the following. 'The Nelson Street Residents' Group raised concerns over the nature of the bar. Mr James Lee felt it would be used in the main by people visiting the Hanse House for other facilities, prior to a wedding or a meal in the bistro for example...He did not feel that concerns over late night drinking were applicable as establishments of that kind were already available and it was not intended to promote the bar in this way....'

At the Licensing Sub-Committee the then applicant (Mr James Lee) is recorded as saying that "the business he was trying to establish was not comparable to those referred to in the town centre" (licensed pubs) ...and that "the premises licence application for Hanse House is to allow for wedding receptions and other such functions".

At another point in the meeting Mr Lee mentioned the Town Hall (used for private wedding and birthday parties, civic ceremonies, and occasional classical music concerts), the former Bradley's wine bar and restaurant, and the Bank House restaurant and hotel saying "... if our mode of operation and target clientele (are) of a similar nature then it is probable that we will also not disturb or inconvenience them" (i.e. residents). The former Bradley's wine bar did not hold regular gig/music events, it was primarily a restaurant, nor does the Bank House (apart from some jazz/classical events as part of the Kings Lynn Festival).

The Licensing Sub-Committee in reaching its decision for the Hanse House application, itself stated that "...we consider that the applicant is not looking to run a business similar to that of a night club, but an upmarket and historical venue for weddings and functions". In relation to the decision for the Rathskeller application the Sub-Committee stated "...we consider the applicant is not looking to run a business similar to that of a nightclub but wishes to sell wine with a meal or at a farmers' market".

I can find nowhere in the licensing committee papers or minutes any indication that the operation of Hanse House and/or the Rathskeller would include the promotion of a regular (sometimes weekly) schedule of live band performances in the undercroft bar, open to the general public. These are some of the bands that have produced noise nuisance by playing at the premises: '*The Dulcet Tones*' described on the Rathskeller's events page as a 'high energy rock indie band', '*Corduroy*' who 'play a lively mix of indie and rock', '*Flint Moore*' who 'are a grunge, folk, funk band based in Norfolk' and '*Gifford*' a "Pop/Funk band". The live band operation and promotion seem to be very similar to that of '*Bar Red*' located in the town centre in Norfolk Street, one of the businesses that presumably Mr Lee said he was not intending to emulate. (<http://therathskeller.co.uk/events/>)

In addition, I contend that the use of the 1<sup>st</sup> floor South Range function/reception room, alongside St Margaret's Lane, for discos and music events was not made explicit (although it was included in the plans) at the Licensing Sub-Committee.

Mr Lee is recorded as saying in response to a question asked at the meeting that '.... the marriage room would be used to have a glass of champagne / sandwiches etc. and that it was not the intention to hold wild parties.' My neighbour who asked the question has told me that the minutes here have been recorded incorrectly. The question and response were in reference to the South Range 1<sup>st</sup> floor reception room which is located next to the "marriage room" in the West range. (If one reads the minutes, Mr Lee's response only makes sense if the room being referred to is the function/reception room and not the room in which the actual marriage ceremony is performed).

This function room has in fact been used for private parties with loud discos and DJs (although I believe it has not been used for amplified music events for some months now).



Mr Lee is recorded in the minutes as saying that “the sections of the (Hanse House) building closest to residential areas are themselves residential or office spaces”. This is incorrect – the South Range 1<sup>st</sup> floor function room is 5m from (and directly opposite) the residential properties 8, 9 and 10 Hampton Court located alongside St Margaret’s Lane.

Screen snips taken from Kings Lynn News on-line Gigs Guide

**Lynn News**  
@lynnnewscitizen

Best what's on news from the Lynn News, lynnnews.co.uk, @lynnnewscitizen on Twitter

18:30 Thursday 17 September 2015

**FRIDAY 18**

Arwil, Congham 01485 600625 WHERE'S THE DOG?

Bar Red, King's Lynn 01553 772579 GIFFORD

Crossways, King's Lynn 01553 771947 TRAVIS GRAHAM

Fox and Hounds, Heacham 01485 570345 GROOVE CARTEL

The Rathskeller, King's Lynn 01553 773713, 8pm GEORGIA SHACKLETON TRIO

Woolpack, King's Lynn 07917 698735, 8pm Karaoke

0 comments  
HAVE YOUR SAY

11:24 Thursday 02 June 2016

To have your gig included, please call Chris Hornby on 01553 817323 or email to chris.hornby@jpress.co.uk

0 comments  
HAVE YOUR SAY

**FRIDAY 3**

Arwil Inn, Congham 01465 600625 DEAD HORSE

Bar Red, King's Lynn 01553 772579 BAD TOUCH

Blakeney Harbour Room 01263 741666, tickets £12 THE BRYAN ADAMS EXPERIENCE

Crossways, King's Lynn 07717 535047 GERRY SEATON'S BAND

Fox and Hounds, Heacham 01485 570345 Jam session with DNA

London Porterhouse, King's Lynn 01553 766307 CLAIRE

Maids Head, King's Lynn 01553 767153 Karaoke with Miami Nights Roadshow

Rathskeller, King's Lynn 01553 773713 ODD MAN OUT

RBL Club, King's Lynn 01553 767887 VICKY

Riverside, Sutton Bridge 01406 351402 Karaoke

11:48 Thursday 12 May 2016

To have your gig included please call Chris Hornby on 01553 817323 or email to chris.hornby@jpress.co.uk

0 comments  
HAVE YOUR SAY

**SATURDAY 14**

Bar Red, King's Lynn 01553 772579 THE ONE-EYED CATS

Diglea Caravan Park, Snettisham 01485 541367 FLASHBACK

Downham Market Club 01366 382246 STONE PONY

Ingoldisthorpe Sports and Social Club 01945 773323, 8pm STEVE LAYNE

Rathskeller, King's Lynn 01553 773713 ON THE LEVEL

Runcion Holme Social Club 01553 811552 MERVYN AND THE STARBEATS

United Services Club, Hunstanton 01495 533360 BUDGIE WALTON

William Burt Social Club, West Winch 01553 841542 PAUL COPESTAKE

Wootton Park, North Wootton 1-8pm Picnic on the Park (see story Page 75)  
MEADOW LANE / SIMON BENEFER / AMONG THE CITIZENS / ARIAS ECHO / PIRATE JOE / SACRED NATIONS

Workers Club, King's Lynn 01553 772983, 8pm DAVE CASS

4. Frequent poor premises management (with regards to controlling the noise from music events) and lack of appropriate sound insulation

Management are frequently allowing the live band or DJ to play music too loud. For example, a recent disco (2/4/16) was recorded on my iPad DBA monitoring application as being at 120 DBA – which is equivalent to the level of an aircraft jet engine at 100m. (I spoke to one of the guests standing outside the front door of Hanse House (facing the church) who said he was frequently having to come outside (to smoke) as the disco was too loud).

There is little evidence of management undertaking ‘...periodic external monitoring .... when live / amplified music events are taking place’ (as required under the agreed Noise Management Plan). My partner and I have frequently walked outside the perimeter of the premises so as to understand where the music was located and until fairly recently have hardly ever met with Hanse House staff.

In the past, management often allowed the music to run on past the licencing hours – this however has not occurred in recent months.

I wish to acknowledge my appreciation to Mr Lee for agreeing to a CSNN Team request for an earlier finish to live band music in the undercroft bar. These events predominantly now stop at 23.30 although my understanding is that the CSNN Team requested a 23.00 finish.

The noise situation is exasperated by the nature of the building itself. No air conditioning has been installed in the building but the bar and the function rooms seem to get very hot. Windows and doors are being regularly opened during music events in order to cool the premises. Windows, when closed, are only single glazed.

I have also observed a fire door being propped open by a fire extinguisher to allow guests ready access to the 1<sup>st</sup> floor North Range function room from the front entrance in St Margaret’s Place and guests trying to keep open the door of this function room to let in air from the landing.

No sound insulation measures seem to have been included in the recent building refurbishment (converting it from Council offices) to protect nearby residents from potential noise, for example, acoustic doors or sound screens, and non-openable, noise-insulated windows. Yet Mr Lee at the Licensing Sub Committee stated ‘...during renovation of the building noise reduction measures had been incorporated which would provide solid sound proofing’. The subcommittee in reaching their decision stated “... we are satisfied that the applicant has implemented noise reduction into the renovation of the building.”

In a response to a Freedom of Information (FOI) question, submitted by me to the BCKLWN on 23/11/15, as to whether the ‘CSNN Team received any schedule of such (noise insulation) measures and/or inspected them before making their recommendation to the licensing subcommittee’, I was referred to the documentation on the Council’s planning website. However, I cannot find any evidence that the planning application that was approved included noise reduction measures despite a thorough review of all the correspondence, drawings, minutes etc. on the planning website.

The only reference to sound insulation is in the Noise Management Plan which requires the dividing wall between Flat 1 (within the Hanse House property) and the 1<sup>st</sup> floor South Range reception room to be fitted with acoustic insulation.

**Requests to the Licensing Sub-Committee:**

- That the regulated entertainments licences for Hanse House and the Rathskeller (WN009493 and the WNPL009494) are suspended until a fit-for-purpose Noise Management Plan/s is/are submitted by Mr Lee and approved by the CSNN Team to take account of the changed use of the bar and the nature/frequency of the music events. The Noise Management Plan/s to include agreed noise levels and monitoring locations as the Licensing Sub-Committee originally intended, good management practices for controlling noise, and the possible introduction/installation of sound insulation measures.
- That the immediate neighbours of Hanse House are quickly consulted upon the Noise Management Plan/s before the CSNN Team agrees it/them.
- That notwithstanding the above, given the nature of the Hanse House and surrounding buildings, the quiet residential nature of the immediate locality, and the frequent poor management over the last 2.5 years, that regulated entertainment events stop on Friday and Saturday at 23.00. This isn't the right venue or locality for holding late-night amplified music events.
- That no **amplified** music (either live or recorded) is permitted to be played in the internal courtyard or in the 1<sup>st</sup> floor South Range function/reception room.

Please provide as much information as possible to support the application

## LOG OF NOISE NUISANCE EXPERIENCED

(All of these incidents were experienced with my windows closed and the noise in each case prevented me from going to bed until the music had finished)

CSNN = BCKLWN Community Safety and Neighbourhood Nuisance Team, HH = Hanse House SML = Saint Margaret's Lane, TEN = Temporary Event Notice

DATE	FROM	TO	NATURE OF NOISE	OTHER COMMENTS
Friday 12/12/14	Not noted	24.15	Bass from a live band. Breach of license hours.	Contacted the Council's CSNN Team about this incident and was sent noise monitoring log form.
Tuesday 23/12/14	21.30	23.45	Drum & Bass from a live band. Breach of license hours.	Phoned HH management, to request noise reduced (no action), and Council's out-of-hours team (no one available to visit).
Saturday 24/01/15	Not noted	24.15	Bass from a live band. Breach of license hours.	Music stopped after I phoned HH management about breach of license. Reported to CSNN Team via email.
Saturday 7/02/15	21.00	24.20	Rhythm beat of 70's disco (SML South Range function room). Breach of license hours.	Disturbance reported to CSNN Team via email.
Saturday 15/02/15	22.45	24.00	Bass from live band became more audible from this time.	Disturbance reported to CSNN Team via email.

### AWAY FROM HOME 9 TO 15 MARCH AND 27 MARCH TO 7 APRIL

Saturday 18/04/15	21.45	22.30	Vocals and bass from live band.	Phoned HH management to ask for reduction in sound (no action) and was told bar windows open because of the heat. Disturbance reported to CSNN Team via email.
Saturday 25/04/15	22.05	22.45	Bass from live band became more audible from this time.	Disturbance reported to CSNN Team via email.
Saturday 9/05/15	Not noted	24.05	Soul music from a disco – music not as loud as in past.	CSNN Team undertook a prearranged visit and concluded noise was a non-statutory nuisance and prejudicial for someone trying to get to sleep. Upon my request, neighbour across SML (HH staff member) got event stopped just after midnight.
Friday 15/05/15	22.30	23.00	Bass from live band became more audible from this time.	Phoned HH management to ask for reduction in sound (no action) and received abusive response. Incident followed in SML below my living room window where member of HH management shouted insults at me – police were contacted.

<b>Saturday 16/05/15</b>	23.00	01.30?	Dance / trance music played very loud with bass rhythmic beat. Eventually got to sleep with ear plugs inserted.	Informed by CSNN Team on the night at 22.00, after coming back to property after Fireworks display on the Quayside, that HH had been granted a TEN to 01.30 as part of the Hanse Medieval Fair. CSNN Team visited my bedroom and concluded noise was a non-statutory nuisance and prejudicial for someone trying to get to sleep.
------------------------------	-------	--------	---	--

**AWAY FROM HOME WEEKENDS OF 22 TO 25 MAY AND 19 TO 21 JUNE**

<b>Friday 3/07/15</b>	19.30	23.30	Bass from disco/dance music.	Disturbance reported to CSNN Team via email.
---------------------------	-------	-------	------------------------------	--

<b>Saturday 11/7/15</b>	20.30	Not known	Vocals from loud acoustic band.	Left my property at 21.00 to sleep at my mother's house as kept awake previous night until 01.15 from loud music coming from The Wennis pub on the Saturday Market Place. Disturbance reported to CSNN Team via email.
-----------------------------	-------	-----------	---------------------------------	---

<b>Saturday 25/07/15</b>	21.00	23.20	Bass from live/recorded music.	Phoned HH management to ask for reduction in sound (temporary reduction made). Disturbance reported to CSNN Team via email.
------------------------------	-------	-------	--------------------------------	--

<b>Friday 31/07/15</b>	23.15	23.20	Drumming from a live band.	Listened to own music (via headphones) from 21.30 until 23.15 and aware of the drumming when I finished. Disturbance reported to CSNN Team via email.
----------------------------	-------	-------	----------------------------	--

<b>Saturday 1/08/15</b>	19.30	23.20	Bass from live/recorded music.	Disturbance reported to CSNN Team via email.
-----------------------------	-------	-------	--------------------------------	--

<b>Saturday 6/08/15</b>	23.30	24.00	Bass from live band became more audible from this time.	Disturbance reported to CSNN Team via email.
-----------------------------	-------	-------	---	--

**AWAY FROM HOME WEEKEND OF 28 TO 31 AUGUST (BANKHOLIDAY)**

<b>Saturday 5/09/15</b>	19.00	23.50	Disco held in SML South Range function room.	Phoned HH management to ask for reduction in sound (this eventually done). Phoned out-of-hours and CSNN Team visited by which time noise bearable in bedroom.
-----------------------------	-------	-------	--	---

<b>Saturday 19/09/15</b>	21.30	23.25	Disco and DJ on mic coming from SML South Range function room. Actual words from 70s/80s songs audible above TV.	Phoned out-of-hours but CSNN team unavailable to visit. Informed Team via email who responded that '...you being able to identify songs last Saturday night would indicate a potential statutory nuisance level'.
------------------------------	-------	-------	--	--



<b>Saturday 3/10/15</b>	20.50	23.35	Thumping bass music from a disco in SML South Range function room.	Went out into SML and observed 2 windows open to Lane in function room – witnessed by 2 of my neighbours also experiencing noise nuisance. No sound boards in use as agreed with CSNN team. Neighbours rang out-of-hours team but no one available to visit. I informed CSNN team via email.
<b>Saturday 17/10/15</b>	13.30	13.45	Drumming from a band (setting up and practicing)	Went out into SML and observed 2 windows open to Lane in function room – witnessed by one of my neighbours also experiencing noise nuisance. No sound boards in use as agreed with CSNN team. CSNN team visited at 23.30 and experienced level of noise in my bedroom. They said it was disturbing for anyone trying to sleep.
	21.00	23.45	Bass from live band playing in SML South Range function room.	
<b>Sunday 1/11/15</b>	10.10	10.20	Bass and vocals from a live band (setting up and practicing)	Band engaged to play music during HH Wedding Fair held on Sunday 11.00 to 16.00. Went out into SML with a neighbour and observed 2 windows open to Lane in function room. Decided to go out into the town to escape the band – returned 14.30 and no music was then playing.
	11.05	14.30?	Bass from live band playing in SML South Range function room.	
<b>Friday 4/12/15</b>	21.45	23.30	Bass from live band playing in SML South Range function room.	Observed window to SML in function room open and noise spilling into street. Noise would have been much louder if it were not for the strong winds blowing (noisier than the music!). Informed CSNN team via email.
<b>AWAY ON HOLIDAY 5 TO 14 DECEMBER</b>				
<b>Friday 18/12/15</b>	20.30	23.30	Bass from a disco held in SML South Range function room.	Did not go outside to see if windows were open in the function room as feeling unwell. Informed CSNN team via email.
<b>Saturday 19/12/15</b>	22.00	24.02	Bass from live band became more audible from this time.	Informed CSNN team via email.
<b>Wed 30/12/15</b>	21.40	23.14	Bass from live band in SML South Range function room. Breach of license hours.	Windows open into HH courtyard. Informed CSNN team via email.
<b>Thursday 31/12/15</b>	22.40	24.30	Bass from live band in SML South Range function room. Breach of license hours?	As I was up anyway (New Year's Eve) this did not cause too much of a disturbance. Informed CSNN team via email.

<b>Saturday 27/02/16</b>	22.00 – louder from 22.50	23.30	Bass from live/disco event.	Phoned Council's out-of-hours team (no one available to visit).
<b>Saturday 19/03/16</b>	21.10  22.30	23.05	Bass guitar from live band in undercroft bar.  Music sounds louder from live band and ceilidh held in 1 <sup>st</sup> floor North Range function room.	Two music events being held. Windows to inner court yard from 1 <sup>st</sup> floor North Range function room open as was main door to HH from St Margaret's Place. Phoned Council's out-of-hours team (but no one available to visit).
<b>Saturday 26/03/16</b>	21.00	22.50	Drumming and some vocals from a live band in undercroft bar.	Observed 3 windows open to HH courtyard in undercroft bar. Took DBA readings using special application downloaded to my iPad. Readings in bedroom (average 54, peak 72 – with window closed) and (average 64, peak 84 with window open). Readings in SML were average 58, peak 72. Informed CSNN team via email.
<b>Saturday 2/04/16</b>	21.00	24.00	Bass from very loud disco held in 1 <sup>st</sup> floor North Range function room. Fainter sounds of live band in undercroft bar. Disco turned down somewhat at 23.35 but still very audible particularly in my bedroom.	Two music events held – but disco by far the noisier. Observed front door to HH from St Margaret's Lane open, fire door to staircase to function room propped open by a fire extinguisher, guests in function room propping open door to function room from landing, windows open whilst band playing in undercroft bar. Talked to guest smoking outside in St Margaret's Place who said function room too hot and disco far too loud.  DBR readings at front door of HH facing the church were average 87, peak 92. Readings upstairs on landing outside North Range function room (average 115, peak 120 with door closed) and the iPad application would not take a reading when the landing door was open as it was over 120 DBA. Readings in bedroom (average 55, peak 68 – with window closed) and (average 57, peak 88 with window open).  Phoned Council's out-of-hours team (no one available to visit). Asked neighbour to come over to witness and to email me regarding his observations so that I could forward it to CSNN Team.



<b>Saturday 9/04/16</b>	Not noted	Not noted	Faint bass from a live band in the undercroft bar.	I have lost the notes I took for this event. Phoned CSNN Team as they requested me to phone if I heard noise, and they visited. But noise not as bad as many previous occasions.
-----------------------------	--------------	--------------	--	--

**SIX MONTH RENTAL OF A LONDON APARTMENT FROM 29 APRIL – BACK HOME  
WEEKENDS OF 21/22 MAY, 10/11/12 JUNE, 2/3 JULY, AND 23/24 JULY**

<b>Saturday 21/5/16</b>	23.15	23.30	Faint bass from a live band in the undercroft bar.	Phoned CSNN Team as they requested me to phone if I heard noise. But only heard noise when I came in from the Fireworks display and decided that CSNN Team did not need to visit because band would be finishing soon. They confirmed that they had visited the location at 22.45 and noise was then at reasonable level.*
<b>Saturday 12/6/16</b>	22.45	23.55	DJ and noise of soul disco music became more audible from this time in my bedroom.	Informed CSNN team via email. Received response that CSNN Officers had visited the location at 22.30 and noise was then at reasonable level.*

I experienced noise disturbance on and off from 1<sup>st</sup> March during 2014 but did not make any consistent notes of these. I did try and deal with the issue directly with the Hanse House Management Team but when nothing happened and the events got more frequent I contacted the CSNN Team in December 2014.

\*The CSNN Team undertook proactive monitoring of Hanse House by walking around the vicinity in pairs on a Friday and Saturday night for a six week period beginning 13 May 2016.

Please tick ✓ yes

Have you made an application for review relating to the premises before

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**

*[Faint handwritten text, possibly "K... .."*

Please tick ✓

yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder ✓
- I understand that if I do not comply with the above requirements my application will be rejected ✓

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures** (please read guidance note 4)

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

Signature

[Redacted Signature]

Date

29/07/16

Capacity

applicant

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

[Redacted Contact Name]

Post town

[Redacted Post Town]

Telephone number (if any)

[Redacted Telephone Number]

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

[Redacted E-mail Address]

**Notes for Guidance**

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. 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.

Our ref:  
Please ask for: Joanne Watson  
Direct dial: 01553 616895  
Direct fax: (01553) 773026  
E-mail: csnn@west-norfolk.gov.uk

Appendix 3 to  
Report to Licensing Sub-Committee  
Re: The Rathskellar, King's Lynn  
Dated 9th September 2016

**Debbie Gates**  
Executive Director

**Central and Community Services**

Mr J Gilbraith  
Licensing Manager  
Environmental Health - Licensing  
Borough Council of King's Lynn & West Norfolk  
King's Court  
Chapel Street  
King's Lynn  
Norfolk  
PE30 1EX

30 August 2016

Dear Mr Gilbraith

**Licensing Act 2003 – Section 51 Review of Premises Licence**

**RE: The Rathskellar, South Quay, King's Lynn**

This representation relates to the licence review for the licensed area known as The Rathskellar, South Quay, King's Lynn.

Whilst I have considered this separately from Hanse House and the review relating to it, I would ask that for each review the panel consider the impact of the activities relating to both the licenses as the residents are effected by both in conjunction.

The CSNN team consider the prevention of public nuisance and also deal with complaints in respect of statutory nuisance. As a responsible authority we have also decided to make a representation at the hearing for The Rathskellar premises. We made recommendations at the original license hearing requiring conditions and a noise monitoring plan and in addition our team have been in receipt of complaints regarding amplified music from The Rathskellar since December 2014.

During the original hearing it was agreed that a noise monitoring plan would be submitted and would include decibel levels. A noise monitoring plan was agreed with our team but it does not include decibel levels and no decibel levels were ever set by the operators. It is important to note that setting decibel levels is not always useful due to changing background noise levels and in this case the background noise levels will vary considerably depending on other activities from premises in the area.

King's Court, Chapel Street, King's Lynn, Norfolk PE30 1EX  
Tel: (01553) 616200; fax: (01553) 691663  
DX 57825 KING'S LYNN

We have witnessed noise from The Undercroft Bar at The Rathskellar at un-reasonable levels. This includes times when we have been able to identify lyrics of songs from The Undercroft Bar at complainant's properties. We have not witnessed them on a regular basis and have also visited the complainant's property on occasions where noise was audible but was not un-reasonable. Please note that on many occasions the music has been audible when we have visited the complainant property.

On receipt of a complaint regarding amplified music we contacted the operators and have met with them many times. They have co-operated to a certain degree.

The nature of the complaints are that the amplified music events in The Undercroft Bar are a problem when windows and doors are open and in particular after 23.00 when the background noise level in the town reduces.

During discussions with the operators some compromises were agreed. Windows and doors were to be closed to The Undercroft Bar during music events and amplified music would finish at 23.30. At the time our team wanted the amplified music to finish at 23.00 but the operators would not agree to that.

There have been times when our team have witnessed these points of agreement not being adhered to. When discussed with the operators they state that due to the nature of the buildings they have not got air conditioning and they have to have the windows and doors open for ventilation. This point is important to note as with the windows and doors open the noise is more noticeable. Furthermore, if there is not adequate ventilation in those circumstances without opening the windows then amplified music is not suitable in that location. Suggestions about mobile air conditioning units have also been made and we have encouraged the operators to discuss options with the planning team at BCKLWN regarding works to add ventilation and extraction. Our team agreed to work with them and the planning team so that we can support such an application. To date our team have not been consulted on such an application. Allegations of the informal agreement not being adhered to and windows and doors being open have been frequent.

#### Reasons for not calling for review as a responsible authority

Despite having been involved for a long period and witnessing some un-reasonable noise levels there is not enough evidence for us to take action regarding statutory nuisance. Statutory nuisance considers the noise level, the duration of the noise, the time of the noise and how often the noise occurs. For a noise to be considered as a statutory nuisance it would have to be causing an un-reasonable disturbance in the complainant's home. As it is not considered to be a statutory nuisance but we are continuing to receive complaints we have also considered calling for review. A review would consider annoyance at lower levels to the public. Our conclusion has always been that our evidence alone may not be compelling enough to support the changes that our team thinks are necessary to make a difference to the lives of the residents. In this case the evidence we have indicates low level intrusion on the resident's lives on a regular basis and occasional significant intrusion for short periods. We have only one official open complaint. Additionally the operators of the premises have shown some co-operation. However it has certainly not been enough co-operation to prevent the need for investigation and monitoring and has still been cause for complaint for the residents. The fact that we have had to invest so much time on a case where the impact is on a low level for the majority of the time is important to consider. Small changes would result in the visits and monitoring being un-necessary as complaints would be un-likely.

Furthermore the fact that the residents are effected by the activities at two separate licensed areas complicates the case as when considered separately the frequency of



the incidents are lower. Considered together the effect of the activities is more regular and gives a real picture of the effect on the surrounding residents.

However, we fully support the reasons for the review as stated in the documentation by the applicant.

The operators have not shown a conscientious approach to managing the venue in terms of the prevention of public nuisance. They have improved in their approach to ensuring they do not breach licence conditions since the intervention of our team, but they would not agree to many informal suggestions that would have been likely to resolve the public nuisance the residents may experience.

When our team became involved on receipt of complaint it was requested that a more suitable management plan be submitted that more accurately reflected the operations that take place there, they would not agree to this. The operations that take place now at the venue were not suggested at the original hearing and a changed management plan would be appropriate.

The CSNN team have evidence that indicates the operations that are currently taking place at the venue are not suitable without some further restrictions to prevent public nuisance and we support the need for review and recommend that the panel carefully consider the fact that only small changes would be required in terms of restrictions that would have a huge benefit to the residents and would only place a small burden on the operators.

#### Outcomes at the hearing that would result in a reduction in public nuisance

It is the opinion of the CSNN team that the annoyance and intrusion experienced by the residents close to the venue could be resolved very easily without un-reasonable impact on the business conducted there.

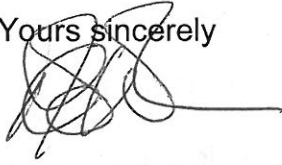
The CSNN team would recommend that ;

- The Undercroft Bar be permitted to play amplified music until 23.00 Monday to Sunday.
- The windows and doors to The Undercroft Bar be closed at all times during the playing of amplified music.
- A new noise management plan be submitted to the local authority within 28 days from the date of the hearing to be approved by the CSNN team. It is recommended that the operators meet with the CSNN team within 7 days of the hearing date to discuss the noise management plan.
- As part of the noise management plan our team would require that noise levels are monitored and recorded On St Margarets Lane, South Quay and Nelson Street at 30 min intervals and recorded for CSNN to view at any time during the playing of amplified music.



These changes are not significantly different to the current permissions under the license. When the operators have kept to the above recommendations complaints have been less frequent.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Joanne Watson', written over the words 'Yours sincerely'.

*JW* **Joanne Watson**  
**Senior Community Safety and Neighbourhood Nuisance Officer**  
**Community Safety & Neighbourhood Nuisance**



**The Rathskeller Review – Other Persons**

<b>Flag</b>	<b>Name</b>	<b>Address</b>
A		
B		
C		
D		
E		
F		

**Location Map – The Rathskeller, South Quay, King's Lynn**

