Report to	Licensing sub committee 7 October 2021
Report of	Head of Planning and Regulatory Services
Subject	Application for the Variation of a Premises Licence – Roger Hickmans Restaurant, 79 Upper St Giles Street Norwich NR2 1AB

Purpose

Members are asked, in accordance with the delegation of licensing functions contained in the Norwich City Council Statement of Licensing Policy (Licensing Act 2003), to consider the application for the variation of a premises licence in respect of Roger Hickmans Restaurant, 79 Upper St Giles Street Norwich NR2 1AB, following the receipt of relevant representation.

Recommendation

That Members determine the application to vary the premises licence in accordance with the:

- Licensing Act 2003;
- Guidance issued under Section 182 of the Licensing Act 2003; and
- Norwich City Council Statement of Licensing Policy.

Corporate priorities

The report helps to meet the corporate priorities of inclusive economy and people living well.

Financial implications

None.

Ward/s: Mancroft

Cabinet member: Councillor Jones – Safer, stronger neighbourhoods

Contact officers

Rachel Bennett – Public Protection Licensing Advisor 01603 989400

Background documents

None

Report

The application

1. The applicant is Hickmans Restaurant Ltd of 79 Upper St Giles Street Norwich NR2 1AB.

2. In summary the application seeks to: add to the existing licensed area the first floor room to provide the licensable activity of the sale of alcohol everyday from 10:00 to 23:30.

Operating Schedule

3. A copy of the existing licence and operating schedule is attached at appendix A to the report.

4. A copy of the application form is attached at appendix B to the report.

5. A copy of a revised plan is attached at appendix C to the report.

6. A copy of a noise assessment report including a covering letter confirming this was sent to the objector is attached appendix D to the report.

Relevant representations

7. The responses from the Responsible Authorities are as follows:

    Police – no representations

    Environmental Protection – no representations.

    Fire Officer – no representations.

    Planning Officer – no representations.

    Area Child Protection Committee – no representations.

    Trading Standards – no representations.

    Primary Care Trust – no representations

8. Representation objecting to the application has been received from 1 local resident. Copy of the representation is attached at appendix E to the report.

Norwich City Council Statement of Licensing Policy

9. Attached at appendix F are the elements of the city council's local licensing policy, which are considered to have a bearing upon the application.

National Guidance (issued under section 182 of the Licensing Act 2003)

10. Attached at appendix G are the elements of the national guidance issued by the Secretary of State that are considered to have a bearing upon the application.

Summary

11. In determining the application with a view to promoting the licensing objectives the sub-committee must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives (i.e. the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm);
- the representations (including supporting information) presented by all the parties;
- the guidance issued under Section 182 of the Licensing Act 2003 (national guidance); and
- the council's own statement of licensing policy.

12. The Sub-Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- Grant the application as asked;
- Modify the conditions of the licence by altering or omitting or adding to them;
- Reject the whole or part of the application

13. The sub-committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.

14. The representations received appear to relate to issues that fall under the licensing objectives. The sub-committee is directed to paragraphs 20 and 24 of the local licensing policy at appendix D which contain examples of factors that impact on the licensing objectives that the applicant could consider when addressing these issues. These paragraphs also contains examples of control measures that may be taken into account in operating schedules having regard to the type of premises and/or the licensable activities.

15. The sub-committee is also reminded of the contents of appendices 2, 3, 4 and 5 of the local licensing policy (not re-produced in this report) which contain pools of model conditions relating to the four licensing objectives.

APPENDIX A LC

NORWICH City Council

Premises Licence Summary

Premises Licence Number	**20/00218/PREM**

Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Roger Hickman's Restaurant
79 Upper St Giles Street
Norwich
Norfolk
NR2 1AB

Telephone number

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence.

Late Night Refreshment - Activity takes place indoors
Sale by Retail of Alcohol

The times the licence authorises the carrying out of licensable activities

Late Night Refreshment	Every Day	23:00 - 01:30
Sale by Retail of Alcohol	Every Day	10:00 - 01:00

The opening hours of the premises

Monday	10:00 - 01:30
Tuesday	10:00 - 01:30
Wednesday	10:00 - 01:30
Thursday	10:00 - 01:30
Friday	10:00 - 01:30
Saturday	10:00 - 01:30
Sunday	10:00 - 01:30

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 Premise

Name, (registered) address of holder of premises licence

Hickman's Restaurant Ltd
79 Upper St Giles Street
Norwich
NR2 1AB

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

Registered Business Number 07132030

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Roger Anthony Hickman

State whether access to the premises by children is restricted or prohibited

NORWICH City Council

Schedule 12

Regulation 33,34

Premises Licence

Premises Licence Number	**20/00218/PREM**

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Roger Hickman's Restaurant
79 Upper St Giles Street
Norwich
Norfolk
NR2 1AB

Telephone number

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence.

Late Night Refreshment - Activity takes place indoors
Sale by Retail of Alcohol

The times the licence authorises the carrying out of licensable activities

Late Night Refreshment	Every Day	23:00 - 01:30
Sale by Retail of Alcohol	Every Day	10:00 - 01:00

The opening hours of the premises

Monday	10:00 - 01:30
Tuesday	10:00 - 01:30
Wednesday	10:00 - 01:30
Thursday	10:00 - 01:30
Friday	10:00 - 01:30
Saturday	10:00 - 01:30
Sunday	10:00 - 01:30

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 Premise

State whether access to the premises by children is restricted or prohibited

Part 2

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

Hickman's Restaurant Ltd
79 Upper St Giles Street
Norwich
NR2 1AB

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

Registered Business Number 07132030

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Roger Anthony Hickman

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Party Reference:

Licensing Authority:

Annex 1 – Mandatory conditions

1 No supply of alcohol may be made under a premises licence -

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

2 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

3 (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises.

a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

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

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

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

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

(a) a holographic mark or

(b) an ultraviolet feature.

6 The responsible person shall ensure that:

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

(i) beer or cider half pint

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

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

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

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

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.

8 For the purposes of the condition set out in paragraph 1:

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979

(b) "permitted price" is the price found by applying the formula:

$P = D + (DxV)$

Where:

(i) P is the permitted price

(ii) D is the amount 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

(iii) 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;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence:

(i) The holder of the premises licence

(ii) The designated premises supervisor (if any) in respect of such a licence, or

(iii) The personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

9 (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

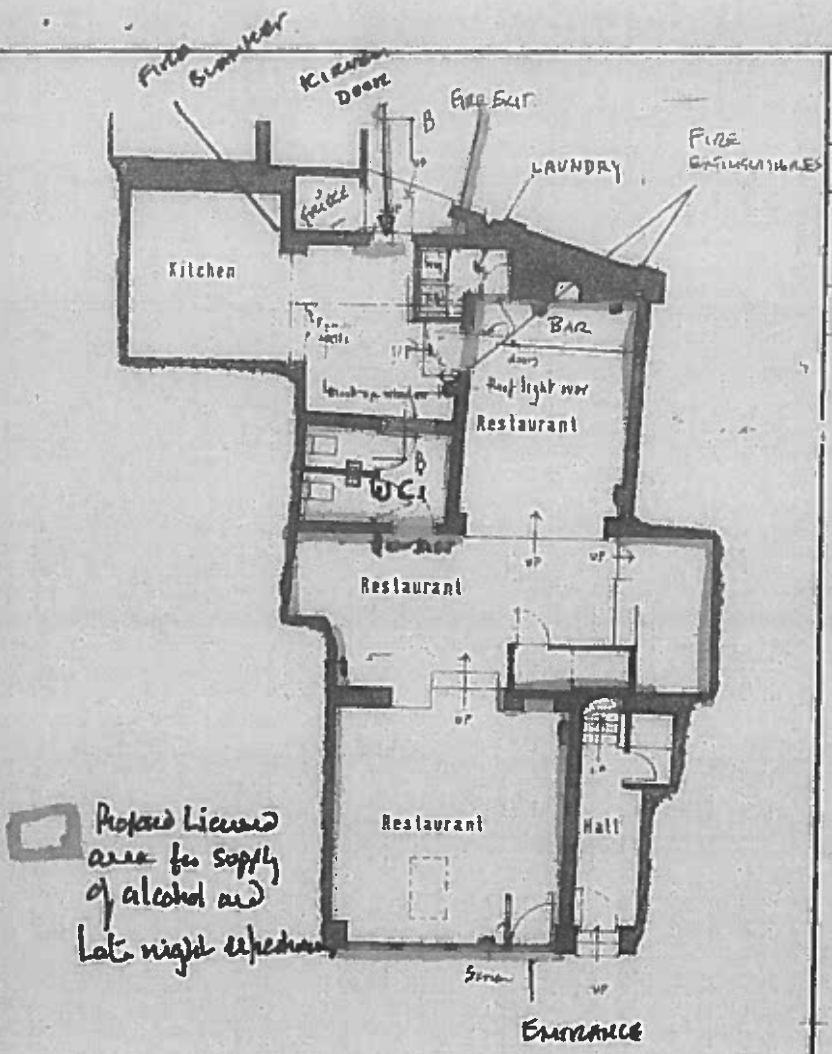
(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions consistent with the Operating Schedule

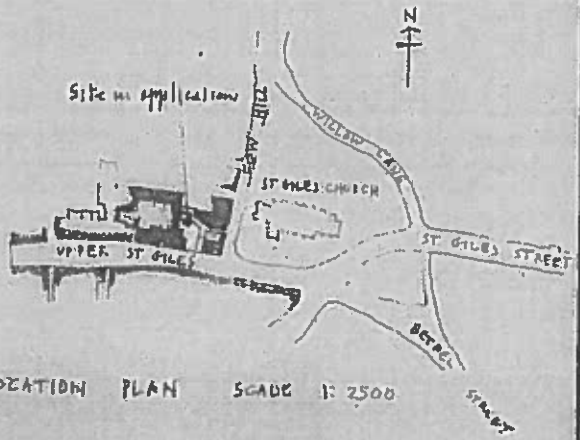
1 **The Prevention of Crime and Disorder**
2 The premises will have a burglar alarm in place.
3 **Public Safety**
4 All escape routes and exits will be kept unobstructed, in good order, free of trip hazards and clearly identified.
5 All exit doors, whenever the premises are occupied, must be able to be easily opened in the case of an emergency without the use of a keycard, code or similar means.
6 All exit doors will be regularly checked to ensure they function satisfactorily.
7 Any removeable security fastenings will be removed whenever the premises are open to the public or occupied by staff.
8 Fire doors will be maintained effectively self-closing, and will not be held open other than by an approved device.
9 Curtains, hangings and temporary decorations will be arranged so as to not obstruct exits, fire safety signs or fire fighting equipment.
10 A first aid box will be kept on the premises.
11 **The Prevention of Public Nuisance**
12 Suitable ventilation and extraction systems will be in provided in the kitchen in an endeavour to eliminate noxious odours and will be continue and be regularly maintained.

Annex 3 – Conditions attached after a hearing by the licensing authority

Annex 4 – Plans



GROUND FLOOR PLAN



LOCATION PLAN SCALE 1:2500

THIS DRAWING IS COPYRIGHT
CONTRACTORS MUST CHECK ALL DIMENSIONS ON SITE
DISCREPANCIES ARE TO BE REPORTED TO THE ARCHITECTS BEFORE PROCEEDING. ONLY FIGURED DIMENSIONS ARE TO BE WORKED TO.

REVISIONS		SIGNED	DATE
A	[illegible]	TAC	[illegible]
B	[illegible]	BJH	20.10.88
C	[illegible]	TAC	27.10.88

ADLARD'S RESTAURANT
79, UPPER ST GILES
NORWICH

PROPOSED ALTERATIONS

T. A. Cross. R.I.B.A.
(Berry, Crane & Noble)
CHARTERED ARCHITECT
SUCKLING HOUSE
ST. ANDREWS HILL
NORWICH NR2 4AH
TELEPHONE: NORWICH 627218

DATE	SCALE	DRAWN BY
27.9.88.	1:100	B.J.H.

JOB NO	DRG NO
2110	2c

Application to vary a premises licence under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We HICKMAN'S RESTAURANT LTD.
(Insert name(s) of applicant)
being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number	20/00218/PREM

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description ROGER HICKMAN'S RESTAURANT 79 UPPER ST. GILES STREET			
Post town	NORWICH	Postcode	NR2 1AB

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£ BAND B

Part 2 – Applicant details

Daytime contact telephone number			
E-mail address (optional)			
Current postal address if different from premises address			
Post town		Postcode	

RECEIVED
20 JUL 2021
LICENSING OFFICE

Part 3 - Variation

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible? ☑ Yes ☐ No

If not, from what date do you want the variation to take effect? DD MM YYYY

Do you want the proposed variation to have effect in relation to the introduction of the late night levy? (Please see guidance note 1) ☐ Yes ☐ No

Please describe briefly the nature of the proposed variation (Please see guidance note 2)

TO ADD TO THE EXISTING LICENSED AREA THE FIRST FLOOR ROOM AS INDICATED ON THE ATTACHED PLAN TO PROVIDE THE FOLLOWING LICENSEABLE ACTIVITIES

SALE OF ALCOHOL 10.00 - 23.30 7 DAYS

HOURS OF OPENING 10.00 - 24.00 7 DAYS

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend:

Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

Provision of regulated entertainment (Please see guidance note 3)		**Please tick all that apply**
a)	plays (if ticking yes, fill in box A)	☐
b)	films (if ticking yes, fill in box B)	☐
c)	indoor sporting events (if ticking yes, fill in box C)	☐
d)	boxing or wrestling entertainment (if ticking yes, fill in box D)	☐
e)	live music (if ticking yes, fill in box E)	☐
f)	recorded music (if ticking yes, fill in box F)	☐
g)	performances of dance (if ticking yes, fill in box G)	☐
h)	anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)	☐

Provision of late night refreshment (if ticking yes, fill in box I) ☐

Supply of alcohol (if ticking yes, fill in box J) ☑

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 8)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	☐
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for performing plays (please read guidance note 6)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 8)			Will the exhibition of films take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	☐
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for the exhibition of films (please read guidance note 6)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 8)			Please give further details (please read guidance note 5)
Day	Start	Finish	
Mon			
Tue			State any seasonal variations for indoor sporting events (please read guidance note 6)
Wed			
Thur			Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list (please read guidance note 7)
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 8)			Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	☐
				Outdoors	☐
				Both	☐
Day	Start	Finish			
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for boxing or wrestling entertainment (please read guidance note 6)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sat					
Sun					

E

<table>
<tr><td colspan="3">Live music
Standard days and timings (please read guidance note 8)</td><td colspan="2" rowspan="2">Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 4)</td><td>Indoors</td><td>☐</td></tr>
<tr><td>Day</td><td>Start</td><td>Finish</td><td>Outdoors</td><td>☐</td></tr>
<tr><td>Mon</td><td></td><td></td><td colspan="3" rowspan="2">Please give further details here (please read guidance note 5)</td><td>Both</td><td>☐</td></tr>
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<tr><td>Wed</td><td></td><td></td><td colspan="3" rowspan="2">State any seasonal variations for the performance of live music (please read guidance note 6)</td><td colspan="2" rowspan="2"></td></tr>
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F

Recorded music Standard days and timings (please read guidance note 8)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	☐
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for the playing of recorded music (please read guidance note 6)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sat					
Sun					

G

Performances of dance Standard days and timings (please read guidance note 8)			**Will the performance of dance take place indoors or outdoors or both – please tick** (please read guidance note 4)		
				Indoors	☐
				Outdoors	☐
				Both	☐
Day	Start	Finish			
Mon			**Please give further details here** (please read guidance note 5)		
Tue					
Wed			**State any seasonal variations for the performance of dance** (please read guidance note 6)		
Thur					
Fri			**Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list** (please read guidance note 7)		
Sat					
Sun					

H

<table>
<tr><td colspan="3">Anything of a similar description to that falling within (e), (f) or (g)
Standard days and timings (please read guidance note 8)</td><td colspan="3">Please give a description of the type of entertainment you will be providing</td></tr>
<tr><td>Day</td><td>Start</td><td>Finish</td><td colspan="3" rowspan="2"><u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 4)</td></tr>
<tr><td rowspan="2">Mon</td><td></td><td></td></tr>
<tr><td></td><td></td><td>Indoors</td><td>☐</td></tr>
<tr><td rowspan="2">Tue</td><td></td><td></td><td>Outdoors</td><td>☐</td></tr>
<tr><td></td><td></td><td>Both</td><td>☐</td></tr>
<tr><td rowspan="2">Wed</td><td></td><td></td><td colspan="3" rowspan="2"><u>Please give further details here</u> (please read guidance note 5)</td></tr>
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<tr><td rowspan="2">Thur</td><td></td><td></td><td colspan="3" rowspan="2"><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 6)</td></tr>
<tr><td></td><td></td></tr>
<tr><td rowspan="2">Fri</td><td></td><td></td><td colspan="3" rowspan="2"></td></tr>
<tr><td></td><td></td></tr>
<tr><td rowspan="2">Sat</td><td></td><td></td><td colspan="3" rowspan="2"><u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 7)</td></tr>
<tr><td></td><td></td></tr>
<tr><td rowspan="2">Sun</td><td></td><td></td><td colspan="3" rowspan="2"></td></tr>
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I

Late night refreshment Standard days and timings (please read guidance note 8)			**Will the provision of late night refreshment take place indoors or outdoors or both – please tick** (please read guidance note 4)		
				Indoors	☐
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon			**Please give further details here** (please read guidance note 5)		
Tue					
Wed			**State any seasonal variations for the provision of late night refreshment** (please read guidance note 6)		
Thur					
Fri			**Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list** (please read guidance note 7)		
Sat					
Sun					

J

Supply of alcohol Standard days and timings (please read guidance note 8)			**Will the supply of alcohol be for consumption – please tick** (please read guidance note 9)		
				On the premises	☐
				Off the premises	☐
Day	Start	Finish		Both	☑
Mon	10.00	23.30	**State any seasonal variations for the supply of alcohol** (please read guidance note 6)		
Tue	10.00	23.30			
Wed	10.00	23.30			
Thur	10.00	23.30	**Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list** (please read guidance note 7)		
Fri	10.00	23.30			
Sat	10.00	23.30			
Sun	10.00	23.30			

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 10).

L

Hours premises are open to the public Standard days and timings (please read guidance note 8)		
Day	Start	Finish
Mon	10.00	24.00
Tue	10.00	24.00
Wed	10.00	24.00
Thur	10.00	24.00
Fri	10.00	24.00
Sat	10.00	24.00
Sun	10.00	24.00

State any seasonal variations (please read guidance note 6)

Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 7)

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

M Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 11)

THE APPLICANT IS AN EXPERIENCED AND RESPONSIBLE OPERATOR. THE DPS IS EXPERIENCED AND UNDERSTANDS HIS ROLE AND RESPONSIBILITIES CONCERNING THE FOUR LICENSING OBJECTIVES.

b) The prevention of crime and disorder

ANY PERSON APPEARING DRUNK OF UNDER THE INFLUENCE OF DRUGS WILL BE REFUSED ENTRY. CCTV IS INSTALLED THROUGHOUT THE BUILDING.

c) Public safety

THE WHOLE PREMISES IS FULLY LIT. HAS EMERGENCY LIGHTING, FIRE ALARM SYSTEM & FIRE FIGHTING EQUIPMENT. THE FIRST FLOOR HAS ITS OWN KITCHEN AND TOILETS.

d) The prevention of public nuisance

THERE IS ALLOWANCE FOR ADEQUATE DRINKING UP TIME. STAFF ENCOURAGE CUSTOMERS TO LEAVE QUIETLY.

e) The protection of children from harm

CHILDREN ONLY ADMITTED IF THEY ARE ACCOMPANIED BY AN ADULT. VALID IDENTIFICATION WILL BE REQUIRED WHERE THERE IS ANY DOUBT ABOUT AGE.

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee; or ☑
- I have not made or enclosed payment of the fee because this application has been made in relation to the introduction of the late night levy. ☐
- I have sent copies of this application and the plan to responsible authorities and others where applicable. ☑
- I understand that I must now advertise my application. ☑
- I have enclosed the premises licence or relevant part of it or explanation. ☑
- I understand that if I do not comply with the above requirements my application will be rejected. ☑

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

Part 5 – Signatures (please read guidance note 12)

Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent (please read guidance note 13). **If signing on behalf of the applicant, please state in wha**

Signature	
Date	19th JULY 2021
Capacity	LICENSING AGENT

Where the premises licence is jointly held, signature of 2nd applicant (the current premises licence holder) or 2nd applicant's solicitor or other authorised agent (please read guidance note 14). **If signing on behalf of the applicant, please state in what capacity.**

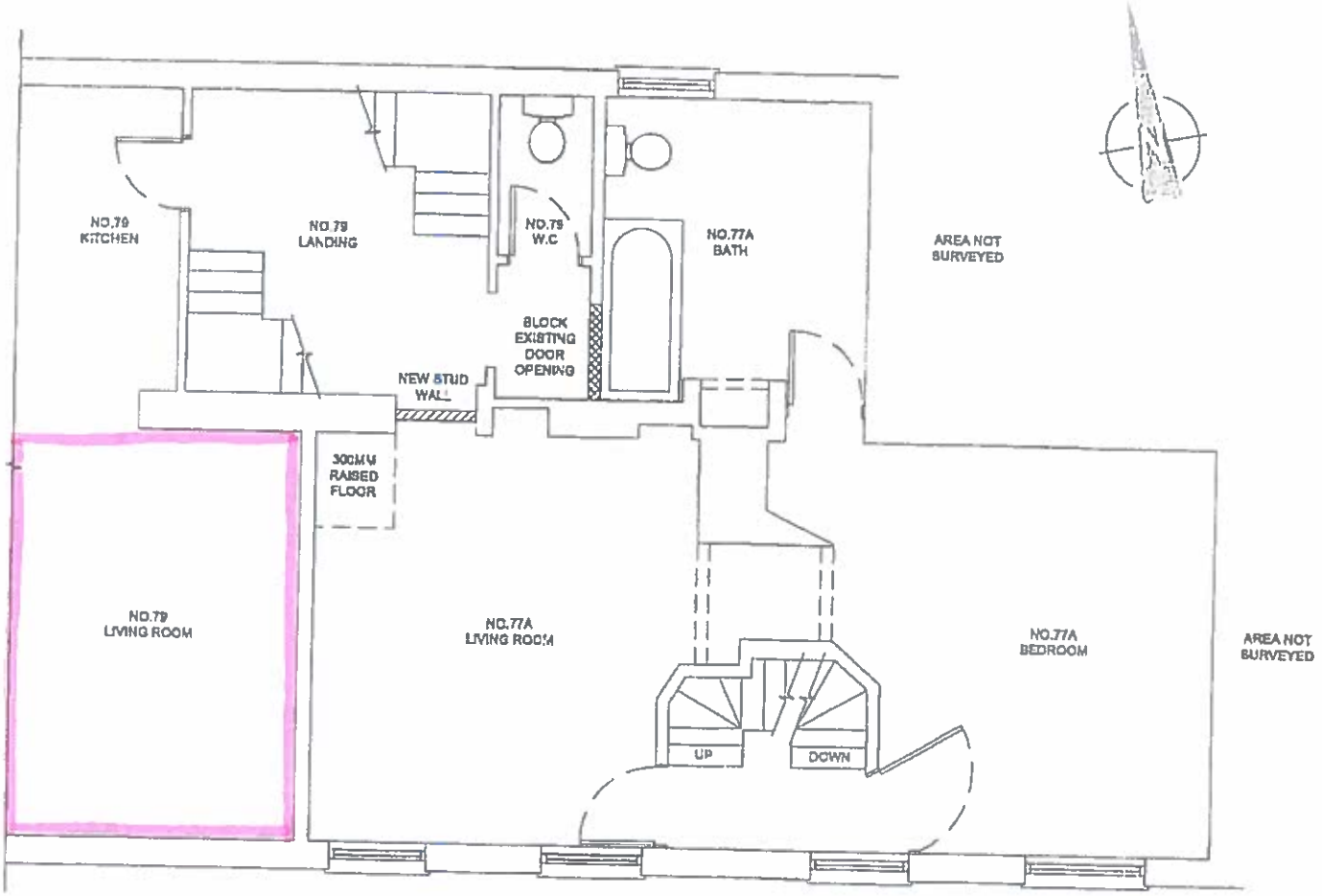
Signature	
Date	
Capacity	

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 15)

STEPHEN B. PICKERING
LICENSING AGENT
6 CROUTEL ROAD

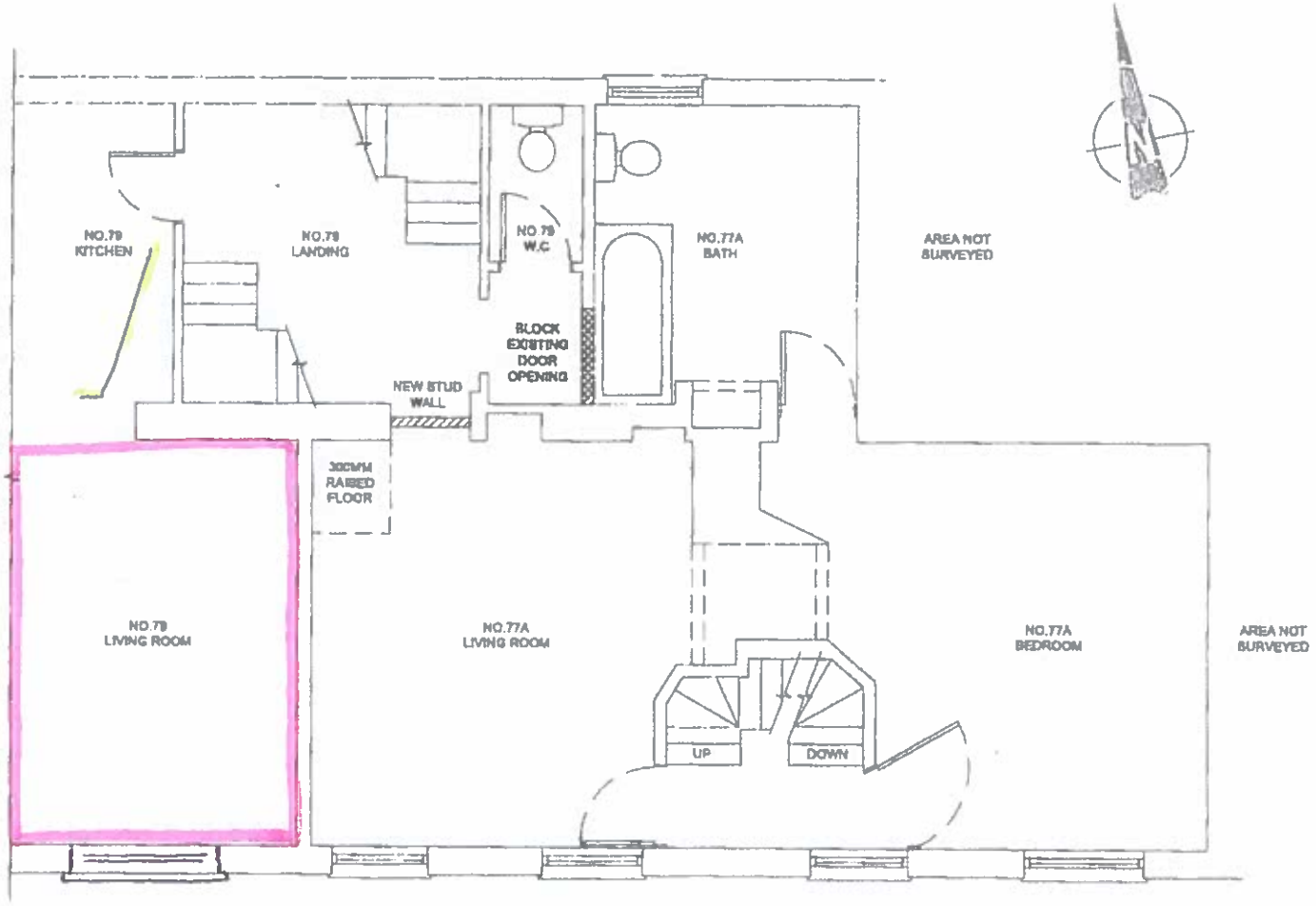
Post town	FELIXSTOWE	**Post code**	IP11 7EF
Telephone number (if any)			

RECEIVED
20 JUL 2021
LICENSING OFFICE



PROPOSED FIRST FLOOR PLAN
(SCALE 1:50 @ A3)

ROGER HICKMAN'S RESTAURANT
79 UPPER ST. GILES STREET
NORWICH NR2 1AB



PROPOSED FIRST FLOOR PLAN
(SCALE 1:50 @ A3)

ROGER HICKMAN'S RESTAURANT
79 UPPER ST. GILES STREET
NORWICH NR2 1AB

APPENDIX D

Stephen B. Pickering
F.A.V.L.P.

Licensed Property Valuer and Agent

6 Croutel Road
Felixstowe, Suffolk
IP11 7EF
Tel: (01394) 282525
Fax: (01394) 282525
Mobile: (07850) 228319
Email: stephenbpickering@hotmail.com

23rd September 2021

Ms Rachel Bennett
Licensing Team
Norwich City Council
City Hall
Norwich
NR2 1NH

Dear Rachel

Re: ROGER HICKMAN'S RESTAURANT
79 UPPER ST GILES STREET NORWICH NR2 1AB

I refer to the application to vary the Premises Licence and the hearing meeting held this morning.

I am enclosing the Noise Assessment Report prepared by Create Consulting Engineers.

I am also enclosing an amended plan showing the position of the window in the dining room. I have also marked in yellow the service counter in the kitchen which effectively enclosed the kitchen area to its left and creates a passage for customers to its right. I would like it noted that all cooking and meal preparation will take place in the existing ground floor restaurant kitchen and the first floor kitchen will be used solely for finishing and service to diners.

I have sent a copy of this letter and all enclosures to Mr C Gooding the objector.

Yours sincerely

Stephen B Pickering
Licensing Agent

Cc Mr C Gooding

ROGER HICKMAN'S RESTAURANT
Noise Assessment –
New Private Dining Area

ROGER HICKMAN'S RESTAURANT
Noise Assessment – New Private Dining Area

Client: Roger Hickman's Restaurant

Engineer: Create Consulting Engineers Limited
15 Princes Street,
Norwich,
Norfolk,
NR3 1AF

Tel: 01603 877010
Email: enquiries@createconsultingengineers.co.uk
Web: www.createconsultingengineers.co.uk

Report By: Mat Tuora, BSc (Hons), MIoA, PG DipIoA

Checked By: Jody Blacklock, BEng (Hons), CEng, PG DipIoA, MIoA, MCIBSE

Reference: MT/VL/P21-2421/01

Date: September 2021

ROGER HICKMAN'S RESTAURANT
Noise Assessment – New Private Dining Area

Contents

1.0 Introduction
2.0 Standards And Guidance
3.0 Site Layout
4.0 Acoustic Survey And Results
5.0 Discussions And Recommendations
6.0 Disclaimer

Appendices

A. Sound Insulation Certificates In Accordance With BS EN ISO 140-4

Registration of Amendments

Revision and Date	Amendment Details	Revision Prepared By	Revision Approved By

1.0 INTRODUCTION

1.1 Create Consulting Engineers have been appointed by Roger Hickman's Restaurant to assess noise for a new private dining area to the adjacent property.

1.2 We understand that the dinning area has been converted from a dwelling.

1.3 We understand that the licence for the new dinning area has recently been objected to on the basis that concern has been raised about high noise levels which may occur to the neighbouring property.

1.4 It must be understood that obtaining planning approval does not mean that a nuisance cannot occur, nor that the building meets the requirements of the local Building Control authority.

1.5 Although good practice is discussed in this report, which should be considered as part of any claim of nuisance, it is beyond the remit of this report to consider nuisance. Assessing nuisance is normally carried out by the local environmental health team and the courts.

1.6 This report assesses noise for the purposes of the licence application. Although criteria considered for Building Regulations compliance has been considered in the formation of this report, this report may not be suitable for use a proof of Approved Document E compliance. A fee for formal pre-completion testing, as required under Approved Document E can be provided if required.

2.0 STANDARDS AND GUIDANCE

2.1 We have contacted Norwich City Council to discuss our assessment methodology, but we have not yet received a reply.

2.2 In absence of discussing the project with a Council representative, we have considered the following guidance in the forming of this assessment.

Approved Document - Part E

2.3 E1 of Part E of the Building Regulations requires dwelling-houses, flats, and rooms for residential purposes to be designed and constructed to provide a reasonable resistance to sound, both with in and from adjoining buildings.

2.4 E2 of Part E relates to internal walls and floors within dwellings and has not been considered as part of this assessment.

2.5 E3 relates to controlling reverberant noise in common areas and again has not been considered as part of this assessment

2.6 E4 relates to acoustics in schools and has not been considered to be relevant to this project.

2.7 Part E sets out the following numerical criteria which should be met do demonstrate 'reasonable resistance to sound' between dwellings.

	Airborne sound insulation $D_{nT,w} + C_{tr}$ dB (Minimum values)	Impact sound insulation $L'_{nT,w}$ dB (Maximum values)
Dwelling-houses and flats formed by material change of use		
Walls	43	-
Floors and stairs	43	64

Table 2.1: Part E requirements

2.8 Part E also states that "A higher standard of sound insulation may be required between spaces used for normal domestic purposes and communal or non-domestic purposes. In these situations, the appropriate level of sound insulation will depend on the noise generated in the communal or non-domestic space...". Where higher levels of sound insulation are required, it is normally the responsibility of Building Control to set an alternative criterion.

2.9 We understand that the buildings are Grade 2 listed. For listed buildings Part E states that "In the case of some historic buildings undergoing a material change of use, it may not be practical to improve the sound insulation to the standards set out in Tables 1a and 1b. The need to conserve the special characteristics of such historic buildings needs to be recognised, and in

such work, the aim should be to improve sound insulation to the extent that it is practically possible..." This section goes on to say that the local planning authority's conservation officer should be consulted with to ensure a reasonable balance between sound insulation and the conservation of the building.

BS 8233 2014

2.10 British Standard 8233:2014 *'Guidance on sound insulation and noise reduction for* dwellings' contains guidance on limits for ambient noise levels inside dwellings. The guideline values are primarily designed to apply to steady, continuous sources (such as road traffic) but are also commonly used to provide a reasonable basis for assessing the suitability of noise levels within a dwelling, although careful interpretation and application of the guideline noise levels is often necessary.

2.11 BS 8233 suggests the following internal ambient noise levels for dwellings:

Activity	Location	07:00 to 23:00 hrs	23:00 to 07:00 hrs
Resting	Living room	35 dB $L_{Aeq,\ 16\text{-hour}}$	-
Dining	Dining room	40 dB $L_{Aeq,\ 16\text{-hour}}$	-
Sleeping or daytime resting	Bedroom	35 dB $L_{Aeq,\ 16\text{-hour}}$	30 dB $L_{Aeq,\ 8\text{-hour}}$

Table 2.2: BS 8233 internal noise guidance for dwellings

2.12 The criteria given in Table 2.2 also form the bases for internal noise limits set in the WHO Guidelines for community noise.

3.0 SITE LAYOUT

3.1 The layout of the private dining area and the first floor of the adjoining property has been shown in Figures 3.1 and 3.2 below:

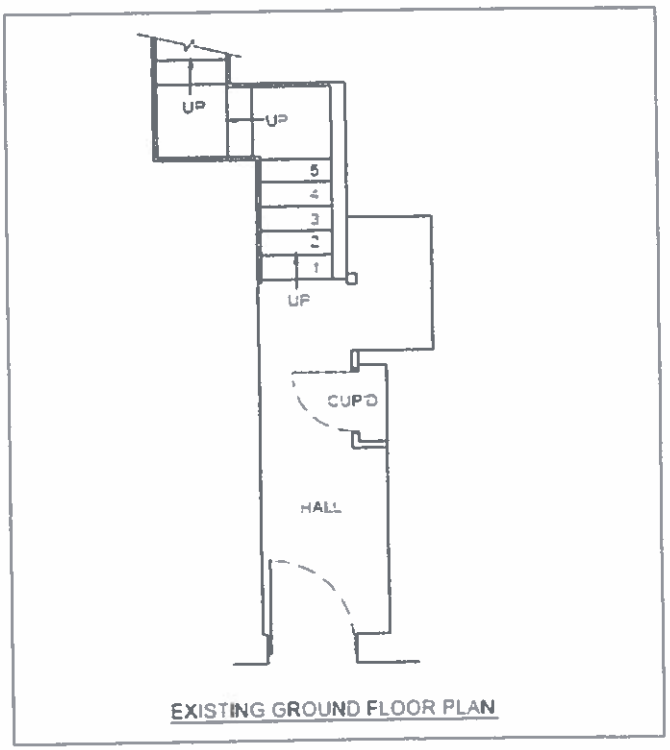


Figure 3.1: Ground floor showing hallway

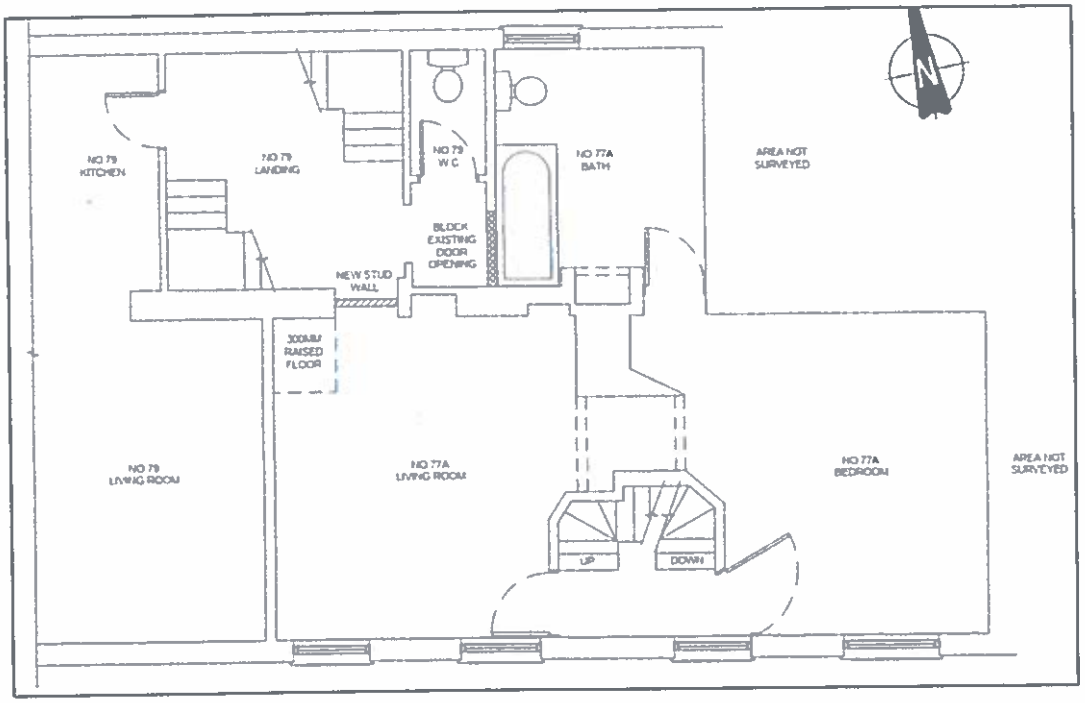


Figure 3.2: First floor showing hallway and adjoining property

3.2 The rooms labelled No.79 Kitchen and No.79 Living Room now form the private dining area and an associated kitchenette.

4.0 ACOUSTIC SURVEY AND RESULTS

4.1 We attended site on 15 September 2021 to assess the existing sound insulation and survey the existing construction details. During this time, we also discussed the perceived noise issues with Christopher Gooding who resides at 77A.

4.2 The external walls appear to be a dense brick or block with a lining on the inner leaf of the wall. The separating wall has been understood to be an existing lathe and plaster wall with a new independent stud work frame on one side with mineral wool in that cavity and finished with plasterboard.

4.3 There was a small section of floor separating flats 77A from the entrance hallway to the new dining area. The detailed build-up of this was not confirmed on site, although it appears to be a timber joist construction with floorboards above and a plasterboard, or similar boarding, ceiling below. The floorboards were noted to have gaps between, and some mastic/filler was used to close these off in some locations.

4.4 Christopher Gooding noted several activities he was concerned could result in excessive noise, most of which were understood to be from noisy or rowdy groups of guests. He noted that heavy footing on the stairs and people talking while using the toilet was clearly audible. He also noted that the front door being slammed was audible and expressed concern that this being closed, along with people shouting as they leave, could cause a disturbance late at night.

4.5 A sound insulation test measured in accordance with Part E was carried out between the proposed dining room and the adjoining living room in 77A.

4.6 Additional measurements were taken across the wall separating the WC from the en-suite and the corridor from the living room above. These were done to inform our investigation and are not Part E compliant tests due to the room dimensions and them not being considered to be habitable spaces.

4.7 The results of our measurements have been shown below:

Test No.	Source room	Receiver room	$D_{nT,w} + C_{tr}$	Meets Part E requirements for sound insulation between dwellings
1	Plot 79, dining room	Plot 77a Living room	47 dB	Yes
2	Plot 79, WC	Plot 77a En-suite	44 dB	[1]
3	Plot 79, Hallway	Plot 77a Living room	41 dB	[1]

[1] – Tests not carried out in accordance with Part E.

Table 4.1: Test results

4.8 All party wall measurements were found to meet the requirements of Part E. However, the test taken between the hallway and the living room was 2 dB below this requirement. It must be remembered that the test between the hallway and the room above is not a Part E compliant test and was only used to inform our investigation. The test certificate in accordance with ISO 140-4 for test 1 has been provided in appendix A.

4.9 Our calculations show that with the existing sound insulation, sound levels in the dinning room could be as high as 78 dB(A) without causing noise levels in the adjoining property to exceed 30 dB(A), assuming all windows are closed in both properties.

4.10 According to ISO 9921 one person talking with a 'raised' voice would generate noise levels of 66 dB at 1 metre. Assuming that three small groups of people were holding a conversation simultaneously with raised voices the resultant internal reverberant level has been calculated to be approximately 76 dB(A) and should therefore not give rise to high enough noise levels to cause internal noise levels to exceed the BS 8233 requirements in the neighbouring properties.

4.11 We have based our calculations on a reasonable worse case assessment assuming reasonably high noise levels from people talking and a higher estimate for simultaneous talkers. However, this does not guarantee inaudibility, and depending on the noise levels in the adjoining property there may be times where conversations are audible, particularly if people are shouting in the dining room.

5.0 DICUSSION AND RECOMMENDATIONS

5.1 It can be seen that the walls separating the private dining area from the adjoining dwelling meet the minimum requirements of Part E between dwellings, and we would expect reasonable noise levels to be acceptable in the dining area without causing noise in the adjoining living room to exceed the requirements of BS 8233.

5.2 In our opinion the sound insulation between the hallway and the living room should be sufficient providing that the clients and staff are not excessively loud when using the entrance way. If high noise levels are expected to be generated regularly in the hallway, we would recommend that the sound insulation is improved. We have not been appointed for detailed design, but some comments have been provided below.

5.3 A clear flanking path was noted around a section of floor which we understand has been infilled (shown as the 300 mm raised floor in Figure 3.2). The relatively loose floorboards and small gaps suggest that an improvement in sound insulation could be obtained by either fully filling the gaps of the floor with a flexible mastic, or under boarding the floor with a tongue and grove board and putting the existing floorboard on top to ensure an airtight seal and an increase in floor mass. The floor could also be over boarded with equal effect, but this may conflict with the conservation of the building.

5.4 Should further work to the separating floor be undertaken any voids in the floor construction should have mineral wool with a minimum density of 10 kg/m^3 laid loosely within.

5.5 The generous ceiling height means that an independent ceiling could be installed below the existing ceiling to further improve the sound insulation. Although it has been noted that a stain glass window at high level in the entrance may need to be removed, which may conflict with the listing requirements, this would still be our recommendation.

5.6 We can advise on detailed construction build ups once the floor construction is confirmed if required.

5.7 During the test between the WC and en-suite a flanking path was identified toward the upper junction where the separating wall meets the external wall. The frequency of noise being transmitted appeared to coincide with that of the speech spectrum. This is consistent with Christopher's account that people could be heard talking while using the phone in the toilet. It was unclear what the cause of this flanking path was during our visit. We can carry out a detailed investigation if required, but we would recommend that separating construction is confirmed to run continuously to the underside of the structural floor soffit and any potential air paths are fully closed off with flexible mastic.

5.8 It should also be noted that when the windows are open in the WC this will be the primary path for noise to pass from the private dining areas WCs to the en-suite. We would not

normally expect this path of noise to require mitigation for planning purposes, but we can advise on further mitigation measures if required.

5.9 The areas of concern raised by Christopher Gooding are not directly addressed under the Building Regulations, and in most cases would be difficult to condition through the guidance discussed in Section 2.

5.10 We would, however, expect any application to consider the management of noise through a noise management plan.

5.11 The plan should identify any areas where noise could occur, and reasonable steps taken to reduce the impact.

5.12 For example, the front door could be fitted with a soft door closing system, rather than the foam tape which is currently installed. This would allow the door to be fully closed with out the need to slam it. The system would of course need to be correctly adjusted and maintained to prevent slamming.

5.13 The plan may include signage through out the building reminding guests that residential properties may be affected by noise and staff training to ensure that they do not inadvertently cause high noise levels, for example, by running up or down the stairs.

5.14 Where large groups of guests are using the private dining area it may be appropriate to have a staff member escort the guests through the main reception so that they can advise them on any rules which may help reduce unnecessary noise.

5.15 Similarly, staff offering to arrange taxis where required would avoid last minute phone calls towards the end of the evening and allow the company to ask the driver to turn their engine off while waiting out the front.

5.16 It is beyond our scope of appointment to construct a full noise management plan, but we would be happy to provide a quote for this if required.

6.0 DISCLAIMER

6.1 Create Consulting Engineers Ltd disclaims any responsibility to the Client and others in respect of any matters outside the scope of this report.

6.2 The copyright of this report is vested in Create Consulting Engineers Ltd and Roger Hickman's Restaurant. The Client, or his appointed representatives, may copy the report for purposes in connection with the development described herein. It shall not be copied by any other party or used for any other purposes without the written consent of Create Consulting Engineers Ltd or Roger Hickman's Restaurant.

6.3 Create Consulting Engineers Ltd accepts no responsibility whatsoever to other parties to whom this report, or any part thereof, is made known. Any such other parties rely upon the report at their own risk.

APPENDIX A

Sound insulation certificates in accordance with 140-4

Standardised level difference according to BS EN ISO 140-4

Field measurements of airborne sound insulation between rooms

create
CONSULTING ENGINEERS LTD

Client: Roger Hickman

Date of Test: 15/09/2021

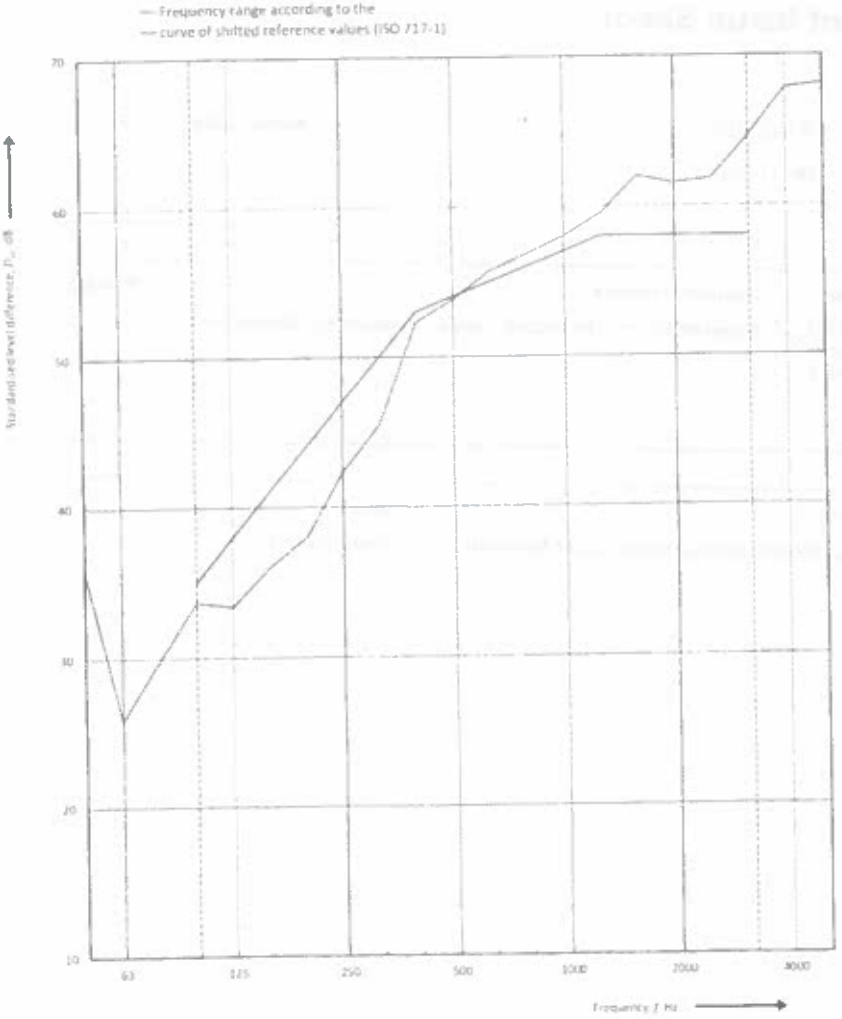
Description: Test taken across wall separating Plot 79, Dining Room and Plot 77a Living Room. Wall construction: lathe and plaster construction with an independent timber stud lining to one side, with mineral wool in the cavity and finished with one layer of plasterboard

Source room volume: 48 m³

Receiving room volume: 45 m³

Frequency f [Hz]	D_{nT} (Test data) 1/3 octave [dB]
50	35.7 *
63	25.8 *
80	29.8 *
100	33.7
125	33.4
160	36.0
200	36.0
250	42.3
315	45.5
400	52.3
500	53.8
630	55.7
800	56.8
1000	58.0
1250	59.5 *
1600	62.0 *
2000	61.5 *
2500	61.8 *
3150	64.6 *
4000	67.8 *
5000	68.1 *

* Reported values are at the limit of measurement



Rating according to ISO 717-1

$D_{nT,w}(C;C_{tr}) = 54\ (-1;-7)$ dB

$C_{100-3150} = -3$ dB $\quad C_{100-5000} = -2$ dB $\quad C_{100-5000} = -1$ dB

$C_{tr,100-3150} = -10$ dB $\quad C_{tr,50-5000} = -16$ dB $\quad C_{tr,100-5000} = -7$ dB

Evaluation based on field measurement results obtained in one-third octave bands by an engineering method

Company: Create Consulting Engineers Limited

No. of test report: 1

Tester: Mat Tuora MIOA

Date of Report: 01/09/2021

Signature: M Tuora

P21-2421 Roger Hickman's Restaurant Noise Assessment

Document Issue Sheet

Issue No: 1

Date: 17 Sep 2021

Issued By: Mat Tuora

Issue Notes: Issue to client

Documents

Document Title	Document Details	Revision	File Type	Issue Reason
MT_VL_P21-2421_01 - Noise assessment for private dinning area	Roger Hickman's Restaurant - Noise Assessment - September 2021	1.0	pdf	For Comment

Recipients

Recipient Name	Role	Media	Copies
Roger Hickman (Roger Hickman's Restaurant Norwich)	Client Contact	Email	1

APPENDIX E

Fuller, Maxine

From: noreply_xforms@norwich.gov.uk
Sent: 10 August 2021 11:57
To: LICENSING
Subject: Licensing - Representation Form

CAUTION! - This email originates from outside Norwich City Council.

Do not click on links or open attachments if you do not recognise the sender's email address or the message looks suspicious.

Norwich City Council

Licensing Authority

Licensing Act 2003

Statement of support or objection to an application for a premises licence

Your name/organisation name/name of body you represent	Christopher Gooding
Postal address	77a Upper St Giles Street, Norwich, NR2 1AB
Email address	
Contact telephone number	
Address of the premises you wish to support or object to	Roger Hickmans Restaurant 79 Upper St Giles Street Norwich NR2 1AB

Your support or objection must relate to one of the four licensing objectives

Licensing objective	**Please set out your support or objections below**
To prevent crime and disorder	
Public safety	
To prevent public nuisance	My objection is about the noise transmission from 79 Upper St Giles to 77 Upper St Giles. The private dining room is next to my living room and the passageway and stairs run immediately next to my living room and dining room. When people speak in 79 it is not just noise I can sometimes interpret what they are saying. My concern is that the variation applied for is for licensing the private dining room between 10am to 11:30 -12:00 pm 7 days a week would if granted make normal life in

	my house impossible. I suggest that before granting a license that the conversion goes through planning permission which I understand would include an assessment of noise transmission and suitable noise remediation.
To protect children from harm	
Please suggest any conditions which would alleaviate your concerns	An assessment of noise transmission between 79 and 77 Upper St Giles Street and the installation of suitable noise remediation.

Full name:	Christopher Michael Gooding	Date:	10/08/2021

APPENDIX F

Local Policy considerations

1.0 Introduction

1.4 The 2003 Act requires the council to carry out its various licensing functions so as to promote the four licensing objectives. These are:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

1.5 The 2003 Act also requires that the Council publishes a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.

2.0 Consultation and Links to other Policies and Strategies

2.7 So far as possible, the council will avoid duplication with other regulatory regimes, and will not to use its powers under the Licensing Act 2003 to achieve outcomes that can be achieved by other legislation and other enforcement agencies. As an example, the council will not seek to impose fire safety conditions that may duplicate any requirements or prohibitions that could be imposed under the Regulatory Reform (Fire Safety) Order 2005.

3.0 Applications for Licences

3.2 Applicants must address the four licensing objectives in their operational plan. The operating plan must have regard to the nature of the area where the premises are situated, the type of premises, the licensable activities to be provided, operational procedures and the needs of the local community. The operating schedule must demonstrate how the premises will be "good neighbours" both to residents and to other venues and businesses.

3.3 Applicants must provide evidence that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style, location and characteristics of their premises and activities. They must also also indicate if additional measures will be taken on an occasional or specific basis, such as when a special event or promotion is planned, which is, for example, likely to attract larger audiences.

4.0 Representations

4.1 "Responsible Authorities" (see Appendix 7) will be asked to consider all applications and to make representations to the council, if they relate to the promotion of the four licensing objectives and particularly in respect of applications which, might be regarded as contentious. Representations must be evidentially based and the organisation should attend any hearing when the

application is being considered. Representations can be made in opposition to, or in support of, an application.

4.2 The council will consider all representations from any “Interested Party” (see Appendix 7), or their representative, which should preferably be evidentially based and supported by attendance at any hearing at which the application is being considered.

4.3 A representation will only be accepted by the council if it is ‘relevant’, i.e. it must relate to the likely effect of granting the licence on the promotion of at least one of the four licensing objectives. Representation’s, that are regarded as being frivolous or vexatious, will not be considered, and in the case of a review of a licence, any representation which is regarded as repetitious, will also not be considered. A decision as to whether a representation is frivolous, vexatious or repetitive will be made by an officer of the council.

5.0 Conditions attaching to Licences

5.1 Where relevant representations are made, the council will make objective judgments as to whether conditions may need to be attached to the premises licence to secure achievement of the licensing objectives. Any conditions arising as a result of representations will primarily focus on the direct impact of the activities taking place at licensed premises, on those attending the premises, and members of the public living, working or engaged in normal activity in the area concerned, and will cover matters that are within the control of individual licensees.

5.2 All applications will be considered on an individual basis and any condition attached to such a licence, will be tailored to each individual premises, in order to avoid the imposition of disproportionate or burdensome conditions on those premises. Therefore, mandatory conditions, will only be imposed where they are appropriate for the promotion of the licensing objectives.

8.0 The Impact of Licensed Premises

8.1 When considering whether any licensed activity should be permitted, and a relevant representation has been received, the likelihood of it causing unacceptable adverse impact will be assessed by taking into account relevant matters including:

- the type of use, the number of customers likely to attend the premises and the type of customers at the time of the application;
- the proposed hours of operation;
- the level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that will be used by the customers;
- the means of access to the premises including the location of customer entrances and exits;
- the provision of toilet facilities;
- the frequency of the licensable activity.

With any adverse impact it may be possible to take steps to mitigate or prevent the impact and if such measures are reliable an activity may be licensed.

13.0 Management of Licensed Premises

13.1 Within the operating schedule for premises from which alcohol will be sold, with the exception of qualifying community premises, a premises supervisor must be designated (designated premises supervisor) and such person must be in possession of a current personal licence. The licensing authority will normally expect the designated premises supervisor [DPS] to have been given the day to day responsibility for running the premises by the premises licence holder and, as such, would normally be present on the licensed premises on a regular basis. In addition to the DPS holding a personal licence, the licensing authority would strongly encourage the DPS to undergo additional training and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.

13.2 The act does not require a DPS or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the DPS and the premises licence holder remain responsible for the premises at all times and have a duty to comply with the terms of the licensing act and any conditions, including the matters set out in the premises' operating schedule, in order to promote the licensing objectives. To that end, the licensing authority will be mindful of the guidance issued by the secretary of state, which recommends that a personal licence holder/DPS gives specific written authorisations to those individuals they are authorising to retail alcohol. Although written authorisation is not a requirement of the act and the designated premises supervisor/personal licence holder remain ultimately responsible for ensuring compliance with the act and licensing conditions, this action could assist in demonstrating due diligence should any issues arise with regard to enforcement.

The licensing authority will therefore expect that where the personal licence holder/DPS does not have the premises under their immediate day to day control, written authorisations will be issued to staff acting on their behalf, such authorisations being made available for inspection by a responsible Officer of the licensing authority or the police upon request.

LICENSING OBJECTIVES

20.0 Objective - Prevention of Crime and Disorder

20.1 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on the City Council, and others, to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for local authorities.

20.2 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of

their premises, relevant to the individual style and characteristics of their premises and the licensable activities at those premises.

20.3 When addressing the issue of crime and disorder, the applicant should demonstrate that all those factors that impact on crime and disorder have been considered. These include:

Underage drinking

Drunkenness on premises

Public drunkenness

Keeping Illegal activity like drug taking and dealing, offensive weapons and sales of contraband or stolen goods away from the premises.

Preventing disorderly and potentially violent behaviour on and outside the premises.

Reducing Anti-social behaviour and Disorder inside and outside the premises

Litter

Unauthorised advertising

Protecting people and property from theft, vandalism and assault

Guard against glasses and bottles being used as weapons or causing accidents.

20.4 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or licensable activities:

Effective and responsible management of premises;

Training and supervision of staff;

Employ sufficient numbers of staff to keep numbers down of people awaiting service;

Provide sufficient seating for customers;

Patrols of staff around the premises;

Ensure sufficient lighting and visibility, removing obstructions if necessary, to discourage illegal activity;

Introduce an entry policy – making people aware of it – and apply it consistently and fairly;

Implement a search policy to prevent drugs, offensive weapons etc being brought onto the premises;

Implement effective management of entrance queues – incorporating barriers if necessary;

Adoption of best practice guidance e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit, Minor Sales Major Consequences, Clubbing against Racism and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by the British Beer and Pub Association (BBPA), Security in Design published by BBPA and Drugs and Pubs, published by BBPA;
Acceptance of accredited 'proof of age' cards e.g. Portman proof of age cards, Citizencard, Connexions Card and/or 'new type' driving licences with photographs, or passports;
Provision of effective CCTV in and around premises;
Employment of Security Industry Authority licensed door staff to manage the door and minimize disorder;
Ensure glasses are collected on an on going basis, make regular inspections for broken glass and clear up;
Provision of toughened or plastic drinking vessels and bottles;
Provision of 'bottle bins' inside the premises and near exits;
Provision of secure, deposit boxes for confiscated items i.e. Operation Enterprise Drug and Weapon Amnesty Safe's;
Information displayed for staff and customers on Drug Awareness including the 'spiking' of drinks with drugs;
Provision of litterbins and other security measures, such as lighting, outside premises;
Membership of local 'Pubwatch' schemes or similar accreditation schemes or organizations ie Operation Enterprise;
Responsible advertising;
Distribution of promotional leaflets, posters etc;
Drug Seizure Kits (available from Norfolk Police Operation Enterprise);

Member of the 'NiteLink' radio scheme;

Working in partnership with the SOS Bus scheme;

Ban known offenders and share information with other licensed premises in the area;

Implement a dispersal policy;

Introduce a 'closed door' policy, with attendance prohibited for new customers 2-3 hours before licensable activities finish;

24.0 Objective - prevention of public nuisance

24.1 Licensed premises can potentially have a significantly adverse impact on communities through public nuisances that arise from their operation. The amenity of residents and occupiers of other businesses should be maintained and protected from the potential consequence of the operation of licensed premises, whilst recognising the valuable cultural, social and business importance that such premises provide.

24.2 Public nuisance will be interpreted in its widest sense, and will take it to include such issues as noise, light, odour, litter and antisocial behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

24.3 Applicants should be aware that stricter conditions, including controls on licensing hours for all or some licensable activities will be applied, where licensed premises

are in residential areas or where their activities may impact on residents or other business premises, and where relevant representations have been received. Conversely, premises for which it can be demonstrated have effective measures to prevent public nuisance, may be suitable for longer opening hours.

24.4 The council will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are exceptional reasons such as disturbance or disorder attributable to the location and/or the premises, and relevant representations have been made.

24.5 The council believe that the impact a licensed premises can have on a neighbourhood is significantly influenced by the times when those licensed premises are open, and the times when licensable activities are taking place. Consequently, the council has adopted a policy on hours of trading, (section E) and in so doing, has given full consideration to the secretary of state's guidance on hours of trading.

24.6 **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events. For example, the increasing business requirement for licence holders to provide live or recorded music in premises where this has not previously been the case is especially pertinent, and should be fully assessed on the application.**

24.7 When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:

- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices, care homes and places of worship
- the hours of opening, particularly between 11pm and 7am
- the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
- the design and layout of premises and in particular the presence of noise limiting features
- the occupancy capacity of the premises
- the availability of public transport
- wind down period between the end of the licensable activities and closure of the premises
- last admission time
- preventing litter and refuse becoming an eyesore
- consideration of local residents that they are not upset by loud or persistent noise or by excessive light
- preventing cars attending an event or premises from causing a noise nuisance and congestion, and from taking up local people's parking spaces
- avoid early morning or late night refuse collections
- avoiding emptying bins into skips, especially if they contain glass, either late at night or early in the morning

- customers eating, drinking or smoking in open air areas (for example beer gardens/forecourts and other open areas adjacent to the premises).

24.8 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises.
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, eg to ensure customers leave quietly.
- Fit prominent signs requesting that customers respect local residents and leave quietly.
- Control of operating hours for all or parts (eg garden areas) of premises, including such matters as deliveries ie not too early in the morning.
- Adoption of best practice guidance (eg Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics, Licensed Property: Noise, published by BBPA).
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
- Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises.
- Liaison with public transport providers.
- Siting of external lighting, including security lighting.
- Management arrangements for collection and disposal of waste, empty bottles etc.
- Effective ventilation systems to prevent the emission of unwanted odours.
- Take away packaging to include the name and address of the premises on it.
- Capacity levels for fast food outlets.
- Introduce a chill out area with coffee and mellow music where customers can settle before leaving.
- Introduce a closed door policy, with attendance prohibited for new customers 2 to 3 hours before licensable activities finish.

To address issues arising from customers smoking, eating and drinking in outdoor areas and on the highway outside the premises could include signage asking customers to keep noise to a minimum when using outdoor areas; restrictions on the numbers of customers permitted in certain outside areas and/or at certain times; and use of door-staff and employees to monitor possible public nuisance issues.

SECTION E - Hours of Trading

30.7 Consideration will always be given to an applicant's individual case and if the matter of trading hours has been raised in a representation, the council will take into account any proposals the applicant has to minimise the risk of nuisance or disorder being caused or exacerbated by customers departing from the premises. It is however, unlikely that statements such as the premises being well-managed, or that the applicant is of good character or that the style of the premises is intended and likely to attract a discerning clientele, will alone be sufficient to demonstrate that restrictions on hours of trading should not be applied.

APPENDIX G

National Guidance

(issued under section 182 of the Licensing Act 2003)

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.

Each application on its own merits

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

Crime and disorder

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

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

2.6 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

2.7 It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. However, licensing authorities must ensure that they do not stray outside their powers and duties under the 2003 Act. This is important to ensure the portability of the personal licence and the offences set out in the 2003 Act and to ensure, for example, that the prevention of disorder is in sharp focus for all managers, licence holders and clubs.

Public nuisance

2.18 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.

2.19 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 is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also 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.

2.20 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 more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues.

2.21 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.

2.22 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late-evening or early-morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise immediately surrounding the premises may also prove appropriate to address any disturbance anticipated as customers enter and leave.

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

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

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

9.41 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or

other persons, and representations made by the applicant or premises user as the case may be.

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

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

Conditions attached to premises licence

General

10.1 This chapter provides further guidance in relation to conditions attached to premises licences and club premises certificates. General principles on licence conditions are set out in Chapter 1 (see paragraph 1.16).

10.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by a fine of up to £20,000 or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.

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

Proposed conditions

10.4 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps

recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.

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

Consistency with steps described in operating schedule

10.6 The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.

10.7 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence or certificate in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder or club must be clear to the licence holder, club, enforcement officers and the courts.

Imposed conditions

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

10.9 It is possible that, in certain cases, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions are appropriate to promote the licensing objectives.

Proportionality

10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

Hours of trading

10.13 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.

10.14 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.

The need for licensed premises

13.18 There can be confusion about the difference between the “need” for premises and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.