

Folkestone

Hythe & Romney Marsh
Shepway District Council



Received
24 January 18

Licensing Team, Civic Centre, Castle Hill Avenue, Folkestone, Kent JCT20 2QY
01303-858660

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

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

I Environmental Health

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a
club premises certificate under section 87 of the Licensing Act 2003 for the premises
described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description
The Bank Bar, Basement Business Premises, 2 Castle Hill Avenue,
Folkestone, Kent, CT20 2QT.

Post town Folkestone

Post code (if known) CT20 2QT.

Name of premises licence holder or club holding club premises certificate (if known)
Swee Leng Teong
26 Abbotts Road
Sutton Sm3 9TA

Number of premises licence or club premises certificate (if known)
(1)

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

First names

I am 18 years old or over

Please tick ✓ yes

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

Post town

Post Code

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

Environmental Health
Shepway District Council
Civic Centre,
Castle Hill Avenue,
Folkestone,
Kent,
CT20 2QY

Telephone number (if any)
01303 853550 needs to be completed

E-mail address (optional)
wal.tse@shepway.gov.uk needs to be completed

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

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

✓	<input type="checkbox"/>
✓	<input type="checkbox"/>
✓	<input type="checkbox"/>
	<input type="checkbox"/>

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

The Licence for the premises Bank Bar has been called in for review on the grounds that the premises have been conducted in such a manner as to prejudice the Licensing Objectives; The Prevention of Crime and Disorder, Public Safety and the Prevention of Public Nuisance and as the local authority exercising Environmental Health functions, in the area where the premises is, we make the application for review.

Prevention of crime and disorder.

The Bank Bar fails to promote the licensing objective of prevention of crime and disorder and that standards of management at the premises are below that, which are expected of a premises operating in the late night economy.

The Community Safety Unit have received reports of persons associated with the bank bar, drinking and drug taking within the alleyway directly behind the bank bar. See Ref: **SCSU-01**

We have received a report regarding a patron of the bank bar urinating within the street. Dated **29/07/2017** See Ref: **SERO/04**

The council currently hold an updated list of police crime reports, associated with the bank bar:

Crimes since Oct 2016

28/01/2017 (2340hrs) :: ZY/3822/17 - Assault

21/04/2017 (2338hrs) :: ZY/15779/17 - Criminal Damage

23/07/2017 (0215hrs) :: ZY/35564/17 - S4 Public Order

Calls to police since Oct 2016

28/01/2017 (2355hrs) :: 28-1390 - fighting at location.

03/03/2017 (2326hrs) :: 03-1657 - Drunk persons in the road after leaving the premises causing a nuisance.

18/03/2017 (0120hrs) :: 18-0084 - Disturbance outside the premises.

16/04/2017 (0313hrs) :: 16-0198 - 10 males causing a disturbance.

29/04/2017 (0220hrs) :: 29-0136 - Noise nuisance.

13/05/2017 (0039hrs) :: 13-0037 - concern surrounding underage drinking at venue.

25/06/2017 (0229hrs) :: 25-0204 - Noise nuisance.

22/07/2017 (2302hrs) :: 22-1638 - Persons coming and going from premises using drugs in alleyway.

19/08/2017 (0113hrs) :: 19-0102 - Persons seen using drugs in toilet.

29/10/2017 (0100hrs) :: 29-0112 - Male has become aggressive in the premises towards informant. Informant had left the premises so no requirement for police attendance. Informant later refused to engage with police.

10/12/2017 (0300hrs) :: 10-0156 - 2 males have been arguing outside the premises for approx. 30mins after coming out of the club. Informant advises that the club should have closed at 2am but was still carrying on until 3am.

Public safety.

The Bank Bar fails to promote the licensing objective of Public Safety and that standards of management at the premises are below that, which are expected of a premises operating in the late night economy.

There have been no door staff witnessed by the Emergency Response Officer (ERO) on the 30/09/17 see Ref SERO/01

There have been a number of taxis associated with patrons of the bank bar blocking the public road. See ERO report dated 24/12/17 Ref SERO/04

The prevention of public nuisance.

The Bank Bar fails to promote the licensing objective of prevention of public nuisance by the unacceptable noise level that is having a material impact on occupiers of nearby residential properties. The noise pollution is caused by loud music and people shouting and screaming, particularly, from the terraces and entrance area witnessed by Shepway District Council officers on numerous occasions.

Please see the corresponding reports:

1. 01/07/17 – Ref SERO/01
2. 30/09/17 – Ref SERO/02
3. 01/10/17 – Ref SERO/03
4. 24/12/17 – Ref SERO/04
5. 21/01/18 – Ref SERO/05
6. 21/01/18 – Ref SERO/06

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

The Bank Bar has been the subject of many complaints and we currently have 15 active complaints. The positioning of the bar means its entrance and exit is located on Castle Hill Avenue, which is primarily a residential area and is a conservative area (see plan of the area **SM-01**.) and so the noise pollution affects a vast number of residents in the area, making it a public nuisance.

Currently their license permits the following opening hours::

Monday: 10:00 01:00
Tuesday: 10:00 01:00
Wednesday: 10:00 03:00
Thursday: 10:00 04:00
Friday: 10:00 04:00
Saturday: 10:00 04:00
Sunday: 10:00 01:00

Please see a copy of the license - **SL-01**. Due to the extremely late opening hours the majority of the complaints are in the early hours of the morning and this is when the Licensing Objectives and the Noise Abatement Notice are breached.

The noise pollution at the premises is also in contravention with the Environmental Protection Act 1990 therefore amounting to a statutory nuisance and is now subject to an ongoing Environmental Health Noise Abatement case.

The Noise Abatement notice was served **12/05/2017** on Mr William Lim and Ms Swee Leng Teong for reoccurrence of noise and a warning letter has been served on the manager on the **04/07/17** following the breach of the Notice on the **01/07/17**.

The council have tried mediation and a meeting took place with the manager William Lim and the last attempt was a letter sent on the **17/05/2017 Ref – SML/01**. At this meeting, noise from patrons using the smoking area was discussed. The door staff are expected to manage the smoking area to minimise noise. As seen in the report **SERO/02** the doors are in constant use and in report **SERO/04** there were 25 people reported to be in the smoking area which is a blatant breach of the mediation terms which were agreed.

It appears that the warnings the council have issued to the licence holder are not being adhered to and all requirements are being ignored.

Please see the below list of evidence. As stated previously we have currently have 15 active noise complaints and continue to receive complaints daily.

SM/01 - Map of area
SL/01- Existing license
SCSU/01 – Complaint Report
SERO/01 – Ero report dated 01-07-17
SERO/02 – Ero report dated 30-09-17
SERO/03 – Ero report dated 01-10-17
SERO/04 – Ero report dated 24-12-17

SERO/05 – Ero report dated 21-01-18
SERO/06 – Ero report dated 21-01-18
SN/01 – Abatement Notice on Swee Leng Teong -12-05-17
SN/02 – Abatement Notice on William Lim -12-05-17
SNA/01 – Accompany letter
SNA/02 – Accompany letter
SW/01 – Warning letter breach Ms Teong 4-7-17
SW/02 – Warning letter beach 4-7-17
SML/01 – Mediation letter

Recommended conditions:

To minimise the impact of the noise from the premises and from patrons leaving the premises the current hours to be reduced. Mr Lim has discussed the premises as a bar with music. To reflect this, live and recorded music to cease at 22.00, alcohol sales to cease at 22.30hrs and the premises to close 30 minutes later – 23:00hrs, which should reflect the planning opening hours.

A noise limiter to be installed and set at a level to be agreed with the local authority.

A Maximum of 15 patrons to use the smoking area. No inebriated patrons to be permitted within the smoking area.

Please tick ✓ yes

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

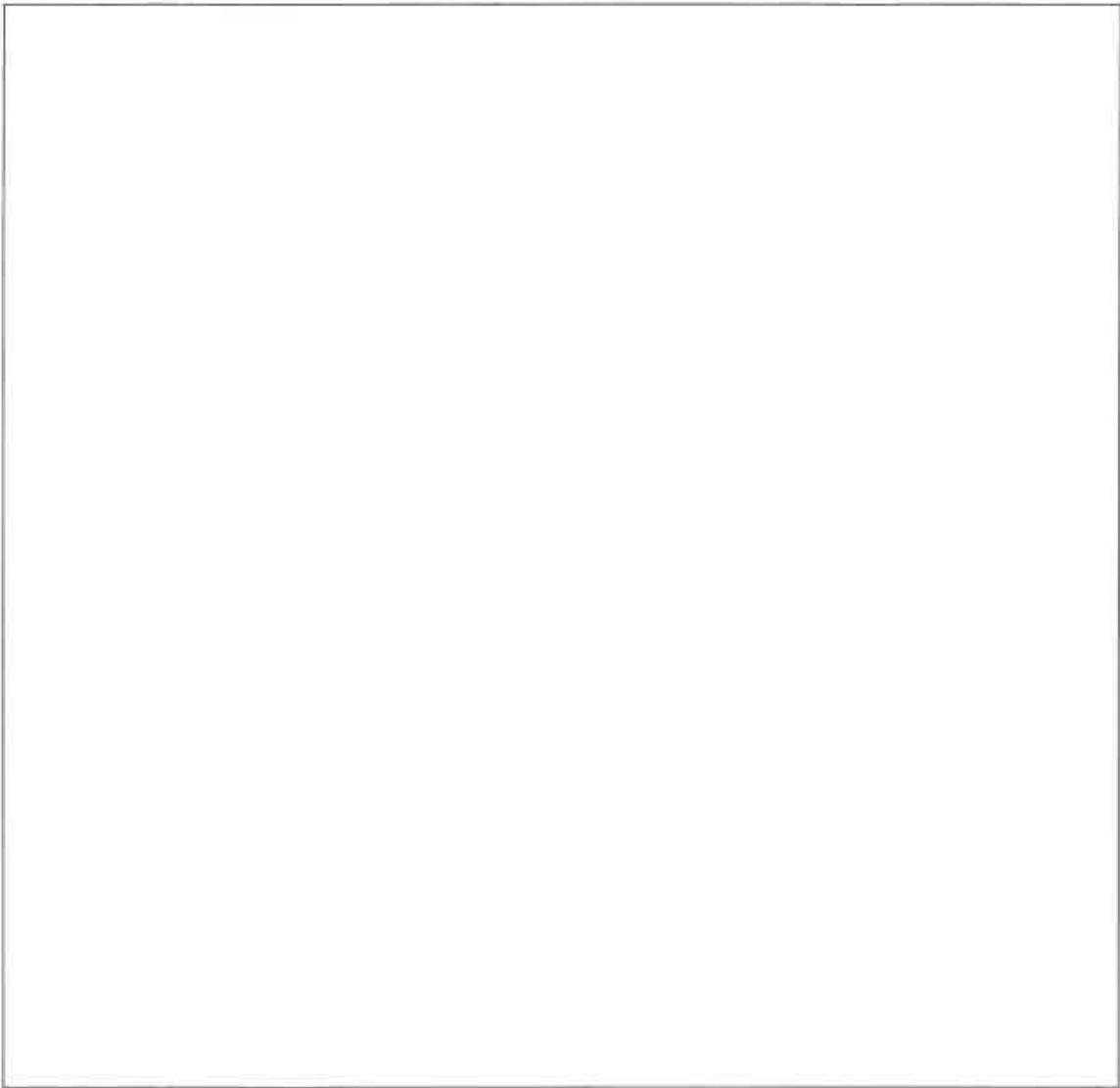
If yes please state the date of that application

Day Month Year

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

N/A



Please tick ✓ yes

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

IT IS AN OFFENCE, 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

.....

Date 24/01/2018

Capacity On Behalf of Environmental Health.

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

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: AA/Bank Bar
Tel: 01303-853242
E-mail: arthur.atkins@shepway.gov.uk
Date:



Mrs Swee Leng Teong
26 Abbots Road
Sutton
SM3 9TA

Dear Mrs Teong,

**Re: Bank Bar, Basement Premises, 2 Castle Hill Avenue, Folkestone CT20 2QT
Licensing Act 2003**

On 9th May 2017 I attended a mediation meeting with William Lim, PC Chris Stephens, Liam Flannery, Rebecca Critcher and Maxine Neill. The meeting was convened under the Licensing Act 2003 following incidents involving noise, disturbance, crime and disorder associated with your premises. The purpose of the meeting was to come to an agreement how to prevent such incidents thus avoiding the need to call your licence in for review.

There was full and frank discussion with William Lim covering all the issues and he agreed to review the following:

- Security staff and the management of people gathering outside
- The number of people using the smoking area and the amount of time they spend outside
- How long the doors remain open and to consider the use of a double door system to minimize the escape of noise
- The music sound levels.

I confirm that your operating schedule will now be attached to your premises licence.

I also confirm that William Lim is not a personal licence holder and should, therefore, do the training course.

If you would like to discuss anything further, please contact me.

Yours sincerely

Arthur Atkins

Environmental Health and Licensing Manager

Chartered Environmental Health Practitioner

Communities

Commercial, Licensing and Events Team

Tel: 01303 853242

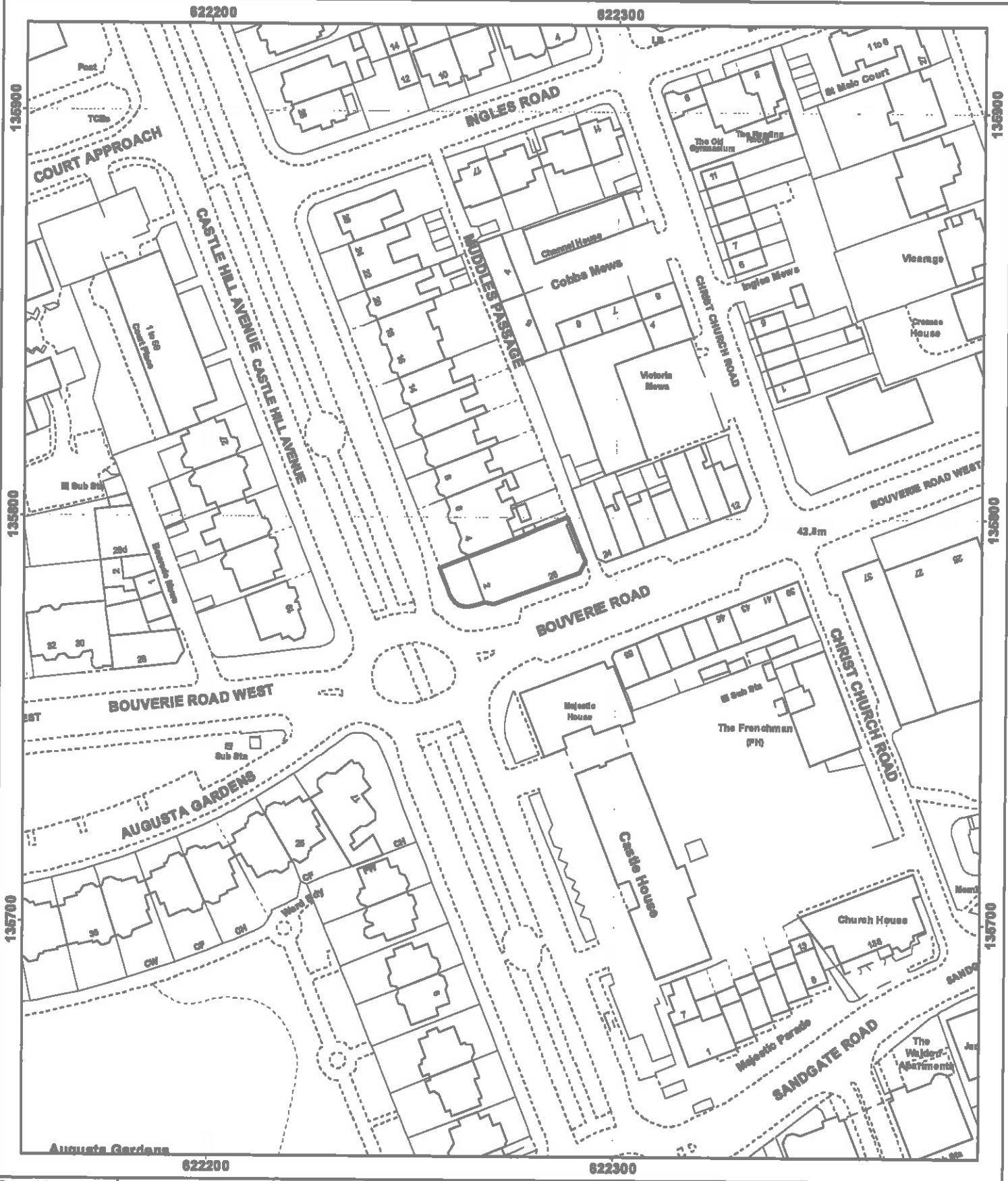
Mobile: 07966874152

Shepway District Council, Civic Centre, Castle Hill Avenue, Folkestone, Kent. CT20 2QY

E-mail: arthur.atkins@shepway.gov.uk

www.shepway.gov.uk

Bank Bar, 2 Castle Hill Avenue, Folkestone, CT20 2QT



Drawn date:
17 Jan 2018

Drawn by:
Brian Harper

Drawing ref:
2235/EPOWT

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Shepway District Council 100019677 - 2018



Folkestone
Hythe & Romney Marsh
Shepway District Council

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Drawn at 1:1,250 on A4

ALERT: ** LICENSING ALERT ** INFORM LIFE LINE OF ANY TEN AT PREMISE

Property

Address Bank Bar, Basement Business Premises, 2 Castle Hill Avenue, Folkestone, Kent, CT20 2QT
Telephone **Fax** **Area**

Worksheet

Source

Name

Address

Home Tel

Work Tel

Mobile

Fax

Email

Department CSU - Community Safety Unit **Date Recd** 29/07/2017 **Time** 01:25

Application CPEH - Service Request **Method** T - Telephone

Task Group DB - Nuisance Behaviour **Recd By** DJ - David James

Task ANT1 - Other **Source Type** GP - General Public

Details 00.00 hrs 29.07.17 Gathering of persons drinking and taking drugs in muddles passage , behind bank bar , complainant says they are bank bar customers , police have attended this premises last week a number of times after reported incidents , see remarks

Message

Cor	CSU - Community Safety Unit	Target	Actual
Time Taken		First Response 08/08/2017	31/07/2017
Next Task		Completed 08/08/17	
Due	Allocated 29/07/2017	Outcome H002 - No Action Required/With	

References

No references set up.

Complaints

Subject Details

Title	Initials	Telephone
First Name		Fax
Family Name		Email

Section

Offence	Statute
Purchase Date	Purchase Time

OFT (Product)	FSA Type
OFT (Condition)	

Previous Complaints (Last 10 not including this one)

Reference	Received	Details	Status	Outcome	Officer
WK/201728177	28/10/2017	Complaint about noise from pub goes assembled out	Comp	C001	LCF
WK/201728167	28/10/2017	28.10.17 00.30 hrs Complaint about noise from pub	Comp	C001	LCF
WK/201730791	27/10/2017	Compliance checks during Halloween weekend event	Comp	L008	BW
WK/201728811	23/10/2017	Customer lives next to Bank Bar and says every week	Resp		HEL
WK/201728030	16/10/2017	List of police calls to premises for Oct 2016-Oct 2017	Comp	L008	BW
WK/201727512	08/10/2017	Member of the public called regarding th	Comp	L008	BW
WK/201728811	30/09/2017	Customer complaining about noise from the Bank Bar.	Resp		HEL
WK/201728814	30/09/2017	30/9/17 @23:51 Complaints about noise coming from b			LCF
WK/201728815	30/09/2017	Customer complaining of dreadfully loud music. Was a			HEL
WK/201728816	30/09/2017	30/9/17 @01:53 cal			HEL

Actions

Action	Officer	Actual	Target	Time	Value	Number
0000 - Procedure Started	CSU	29/07/2017				
AT02 - Telephone Call Made	GRB	31/07/2017				
Comment called customer re problems they have had with the bank Bar including their glass door being smashed in and taking drugs on the bonnet of their daughters car, will raise with police and licensing.						
GLOS - Close Job	NHP	16/10/2017				
Comment Being dealt with on an ongoing basis by Licensing, Planning, Police, EH and CSU.						

User Defined Codes

Reason Graffiti type

Remarks

Please update on what actions we are taking over this matter Dave James

Related Addresses

Address
No related addresses found.

User Defined Addresses

No User Defined Addresses found.

User Defined Text

No User Defined Text found.

Premise Licence

Part A

Premises Licence Number: SHEP00687/17

Folkestone

Hythe & Romney Marsh
Shepway District Council



www.shepway.gov.uk
Shepway District Council
Civic Centre, Castle Hill Avenue
Folkestone, Kent CT20 2QY

Part 1 – Premise Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Bank Bar
Basement Business Premises
2 Castle Hill Avenue
Folkestone
Kent
CT20 2QT Telephone: 02086411780

WHERE THE LICENCE IS TIME LIMITED THE DATES

START DATE: 20/10/2016

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

Recorded Music
Other Similar Provision of Facilities
Late Night Refreshment
Alcohol Sales On & Off Sales

THE TIMES THE LICENCE AUTHORIZES THE CARRYING OUT OF LICENSABLE ACTIVITIES

	Recorded Music	Other Similar Provision of Facilities	Late Night Refreshment	Alcohol Sales On & Off Sales
Monday	10:00 00:30	10:00 00:30	23:00 00:30	10:00 00:30
Tuesday	10:00 00:30	10:00 00:30	23:00 00:30	10:00 00:30
Wednesday	10:00 02:30	10:00 02:30	23:00 02:30	10:00 02:30
Thursday	10:00 03:30	10:00 03:30	23:00 03:30	10:00 03:30
Friday	10:00 03:30	10:00 03:30	23:00 03:30	10:00 03:30
Saturday	10:00 03:30	10:00 03:30	23:00 03:30	10:00 03:30
Sunday	10:00 00:30	10:00 00:30	23:00 00:30	10:00 00:30

NON_STANDARD TIMES (IF ANY)

Extended hours: 10:00 - 6:00 on UK Bank Holiday Sundays (Easter Sunday, early May Bank Holiday, Spring Bank Holiday and Summer Bank Holiday) and also on New Year's Eve, New Year's Day, Good Friday, Boxing Day, December 27th and 28th.

THE OPENING HOURS OF THE PREMISES (IF GIVEN)

Monday	10:00 01:00
Tuesday	10:00 01:00
Wednesday	10:00 03:00
Thursday	10:00 04:00
Friday	10:00 04:00
Saturday	10:00 04:00
Sunday	10:00 01:00

WHERE THE LICENCE AUTHORIZES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND/OR OFF SUPPLIES

ON & OFF

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Swee Leng Teong
26 Abbotts Road
Sutton
SM3 9TA Telephone: 0208 6411780

**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 AUTHORIZES THE SUPPLY OF ALCOHOL**

Swee Leng Teong

26 Abbotts Road

Sutton

SM3 9TA

Telephone: 0208 6411780

**PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD
BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE
AUTHORIZES FOR THE SUPPLY OF ALCOHOL**

LONDON BOROUGH OF SUTTON

PERSONAL LICENCE NUMBER: 5870/0501849

Annex 1- Mandatory Conditions

Mandatory conditions where licence authorises supply of alcohol

- (1) Where a premises licence authorises the supply of alcohol, the licence must include the following conditions.**
- (2) The first condition is that no supply of alcohol may be made under the 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.**
- (3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.**

Mandatory Licensing Conditions Order 2010

1.—(1) The responsible person shall take all reasonable steps to 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

(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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(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;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) 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.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

4.—(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) 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 a holographic mark.

5. The responsible person shall ensure that—

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

(i) beer or cider: ½ pint;

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

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

(b) customers are made aware of the availability of these measures.

Mandatory condition: exhibition of films

(2) Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.

(3) Where-

(a) the film classification body is not specified in the licence, or

(b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

(4) In this section-

"children" means persons aged under 18; and

"film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

Mandatory condition: door supervision

(1) Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.

(2) But nothing in subsection (1) requires such a condition to be imposed-

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or

(b) in respect of premises in relation to-

(i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or

(ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

(3) For the purposes of this section-

(a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and

(b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Annex 2 - Conditions Consistent with the Operating Schedule

General - to meet all licensing objectives:

Work closely with the responsible authorities to promote the four licensing objectives.

All staff will be appropriately trained and have an understanding of their responsibilities under Licensing Act 2003.

Events under non-standard timings will be planned with relevant Authorities.

Challenge 25, will need to have the appropriate ID in the form of a passport, drivers licence or PASS ID card with a hologram.

The prevention of crime & disorder:

Only SIA licensed door supervisors will be used on the premises.

Zero-tolerance of drugs / alcohol abuse.

Incident book maintained on the premises at all times and available upon request.

CCTV system to be maintained with advice from Kent Police and kept available for 28 days.

Public Safety:

External lighting to be maintained.

Capacity to not exceed number calculated by Fire Authority.

The prevention of public nuisance:

Signage urging patrons to be considerate to neighbours, to be maintained.

Limit on number of patrons in the smoking area to be enforced.

Volume limit to be programmed into the sound system.

The protection of children from harm:

No unaccompanied children allowed on the premises.

Challenge 25, will need to have the appropriate ID in the form of a passport, driving licence or a PASS ID card with a hologram.

Annex 3 - Conditions Attached after a Hearing by the Licensing Authority

N/A

Annex 4 - Plans

Date: 19/09/16

and grey sweatshirt.

2.59 people coming and going to bank bar

3.01 2 males clearly passing small package to each other in middle of roundabout they returned to the bar
Door men not visible

3.05 excessive shouting from terrace area 5 males on pavement joined by another 8 males who then began singing in the street

3.08 few people started to leave, noise level of peoples voices and shouting became louder. Male and female voices quite clearly heard. They began spilling out onto the road outside the bank bar

3.10 as people congregating on pavement counted in excess of 28 people mingling and shouting. No doormen to be seen

03.15 taxi sounding his horn waiting for pickup from bank bar

03.17 doorman seen outside bank bar smoking, as people started to exit the bar

As groups walked down street noise became louder as there was a tunnel effect.

03.20 16 people congregated outside Tesco express female shouting could clearly be heard. 8 further people left bank bar and joined group by tesco no doormen seen

03.21 1 male seen speaking to doorman then he entered bar, doorman again seen smoking on terrace area.

03.25 left property. Noise excessive as we left the property as night very still

03.28 drove round passed bank bar 5 people outside and 11 outside tesco express. Lights still on in bar
Left 03.29

Details of Additional Time Taken

Report 30 minutes

Details Passed To: EHO

Time Taken:	4.15	From:	01.15	To:	05.00
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Emergency Response Officer Report

Officer Nathan Deal	Date 30/09/2017	Time Received 00.00	Worksheet Number 201712569
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Nature of Call: Noise and Music
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Reporter Details

Name and Address	Multiple
-------------------------	----------

Postcode	Telephone Number	Telephone Number (day)
-----------------	-------------------------	-------------------------------

Subject Address: Bank Bar, 2 Castle Hill Avenue Folkestone, CT20 2QT

Journey Commence: 00.35Hrs	Arrival Onsite: 01.05Hrs
Departure from Site: 01.45Hrs	Arrival at Home/Next Job: 02.15hrs

Mileage: 38	Start: 47919	Finish: 47957
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Place of Departure: Hampshire Road, Canterbury
Arrived on site at 01.05 and there were more than 25 people congregated outside the premises in the sit down area and on the wall smoking and drinking. I could not see any door staff and the door to bank bar kept opening when people came in and out and you could clearly hear the music coming from inside. All the people outside were making lots of noise continuously shouting and talking and this carried on for the length of time I was there when I left at 01.45 and at no point did I see a door supervisor and also the main doors in constant use.

Details of Additional Time Taken
Report writing(0:15hrs)

Details Passed To: Liam Flannery

Time Taken: 2.15hrs Including report and phone calls	From: 00.00hrs	To: 02.10hrs
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Emergency Response Officer Report – Pat Turley

Officer	Pat Turley	Date	21/1/18	Time Received	01.15	Worksheet Number	201522727
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Nature of Call: Noise from Bank Bar

Reporter Details

Name and Address	XXXXXXXXXXXXXXXXXXXXXXXXXXXX
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Postcode	CT20 2TD	Telephone Number: XXXXXX	Telephone Number (day)
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Subject Address: Bank Bar Basement Business Premises, 2 Castle Hill Avenue Folkestone Kent CT20 2QT

Journey Commence:	01.35	Arrival Onsite:	02.10
Departure from Site:	03.10	Arrival at Home/Next Job:	03.40

Mileage:	Start:	73833	Finish:	73872
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Place of Departure: Home TN29 9RH

T/Call from duty officer advising that XXXXXXXX had called re music, Wai had returned to Dover so asked that I attend.

I arrived at Castle Hill 02.10am the evening was very still, no wind and very little traffic on the road. When I arrived there were 6 people outside the Bank Bar quiet boisterous, but I could not make out what they were saying and shouting, then one female shouted out the name Antony which was quiet audible. I could hear music when the doors opened to the bank bar.

I entered XXXXXXXX property at 02.19 and could quiet clearly hear and feel the vibration of the music from the Bank Bar above XXXXXXXX TV which was on at a normal level of 15. The music was very audible over the TV this lasted for about 5 minutes and the vibration could be felt coming from the base of the music . The music and boom noise was louder when the doors opened to the Bank Bar.

02.26, 6 people were on the patio area of Bank Bar smoking and talking quiet loudly as it was a very still morning,you could hear but not make out what they were saying.The noise was like a drone.

02.28 3 people came out of bar and used cash dispenser then returned to bar.

02.28 Mini bus arrive and parked outside Bank Bar. 2 males and 1 female were observed arriving at the bar and entered. A taxi arrived and parked on the roundabout this stayed on round about for approxamatly 3 minuits then left not picking anyone up.

The mini bus driver was seen to be wantering around looking for his passengers, 2 people approached him and then went back into the bar, when they entered the music vibration could be felt through my legs as though it was coming up through the floor boards This was happening every 3 to 4 minutes as people opened the doors of the bar. At no time was a doorman seen.

02.37 Mass of people approxamatly 12 emerged from Bank Bar and were by the mini bus they were quite audible and music was very audible as people held open door looking for others for the minibus.

02.39 People were allowed onto mini bus and it departed 02.42

02.44 2 people arrive and entered the bar- As they entred the music appeared to be louder and the vibration could be felt through the window of XXXXXXXX flat.

02.46 a taxi arrived on roundabout and proceeded to reverse up the road by the Bank Bar and waited

02.55 another taxi arrived and parked behind the taxi already there 02.56 both taxis left and a blue estate car pulled up on roundabout and parked on roundabout as I left at 02.58 this car picked up 2 passengers

and departed.

As I left the building 2 males crossed the road from the Bank Bar as they passed me I could clearly smell cannabis.

As I drove round passed the Bank Bar 4 people were outside.

Details of Additional Time Taken

Report 15 minutes

Details Passed To: EHO

Time Taken:

From: 01.15

To: 03.55

Emergency Response Officer Report – Pat Turley

Officer Wai Tse	Date 24/12/17	Time Received	Planned visit	Worksheet Number 201522727
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Nature of Call: noise from bank bar

Reporter Details

Name and Address	Castle Hill Avenue, Folkestone, Kent
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Postcode CT20 2TD	Telephone	Telephone Number (day)
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Subject Address: Bank Bar Basement Business Premises, 2 Castle Hill Avenue Folkestone Kent CT20 2QT

Journey Commence:	Arrival Onsite: 00:26hrs
Departure from Site: 01:10hrs	Arrival at Home/Next Job:

Mileage:	Start:	Finish:
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Place of Departure: Home

21/01/18 I arrived on site at 00:26 – Castle Hill Avenue to monitor the Bank Bar. Weather – cold, dry, night, had been raining earlier. I stood on the corner of Augusta Gardens, closely opposite the entrance of the bank bar.

I noted 3 people in the smoking area of the bank bar, located at the front of the property and a door supervisor, walking round the smoking area. I could hear faint bass beat, but the music was more noticeable when the doors were opened for patrons to enter and exit. I checked with lifeline service, who advised me that no one had yet made a complaint about the bank bar regarding tonight's event.

00:32 Bass beat was still audible with in the street. 2 people within the smoking area, but I could hear people talking within the stairwell area very clearly i.e. a male shouted "Who's got the lighter?" . The cars driving past did mask the bass beat, but the music levels seem to increase in volume when the main door to the bar were in use.

00:36 I could hear loud talking, shouting can be heard coming from the stairwell area. Both male and female voices. The bass beat could be heard, but again not above the conversation from the people talking loudly.

00:39 I could still hear people talking in the stairwell area. Noted 2 people in the smoking area.

00:42 Bass beat could still be heard within the street, but most noticeable noise was was people chatting in the stairwell and smoking area. 2 girls and 3 guys in the smoking area.

00:46 I noted 6 people in the smoking area with very loud talking and laughing. The most noticeable noise at this moment was the bass beat going on in the back ground.

00:48 Bass beat still audible and I could see persons smoking in the stairwell.

00:50 Most prominent noise was from people talking and laughing with the bass beat audible within the background.

00:51 I noted 2 people smoking on the pavement area directly at the bank bars entrance, with other people gathering within the stair well area. Smoking area currently empty.

00:54 smoking area still clear, but I could hear people loudly talking and laughing from the stairwell area.

00:58 3 people in the smoking area, the bass beat can still be heard in the back ground.

01:02 5 people in the smoking area. The bass beat can be clearly heard. Noted entrance door opened and the music level increased in volume. I could hear lots of shouting from the smoking area. I did not see any door supervisors in the smoking area or the top of the stairs after my initial visit. It was noted they only stayed within the stairwell area by the main entrance. From my vantage point I saw one door staff by the entrance door and a number of people in the stairwell area.

01:04 1 person in the smoking area but I can hear people talking loudly in the stair well area. The bass beat was still audible within the street.

01:08 I telephone life line again who advised me they have not received a complaint regarding tonight's event.

01:10 left site and I could still hear the bass beat within the street.

At 01.30 I received a call from life line to say they had received a complaint from a member of public regarding noise from the bank bar. Unfortunately I had since left site and was no longer close by. I advised life line to contact the Emergency Response Officer – Please see the follow up ERO report dated 24/01/18.

Details of Additional Time Taken	
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Details Passed To: EHO

Time Taken:	From:	To:
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Ref: Mr. Liam Flannery / WK/201522727
Tel: 01303 853352
Fax: 01303 853294
Email: liam.flannery@shepway.gov.uk
Date: 12th May 2017

Swee Leng Teong
26 Abbotts Road
Cheam
Surrey
SM3 9TA

Dear Ms Swee Teong

**Environmental Protection Act 1990 Notice
Bank Bar, Basement Business Premises, 2 Castle Hill Avenue,
Folkestone, Kent, CT20 2QT**

Following a meeting with William Lim on 6/5/17, please note the attached statutory notice served upon you. This notice has been served because the Council, having witnessed noise emanating from the above premises at an unreasonable level during the early hours of the morning on 29/1/17, 29/4/17 and 6/5/17 and is satisfied of the likely reoccurrence of noise amounting to a Statutory Nuisance.

The notice requires you to restrict the volume of noise from the premises, including amplified sound, music and people noise from inside as well the outside smoking area, so that it does not cause a Statutory Nuisance to the occupiers of nearby residential premises.

At this stage if you decide to comply with the notice and abate the nuisance then no further action will be taken. However, in the event that noise continues to emanate from the premises at a volume likely to cause Statutory Nuisance to your neighbours then the Council will gather evidence to take legal proceedings against you. The legal options available to the Council are:

SEIZURE OF EQUIPMENT

- The Council will apply to the Magistrates Court for a warrant to enter your premises (by force if necessary) for the purposes of seizing equipment associated with the production of noise including: televisions, hi-fi's, CD's, records, videos, musical instruments, etc.

PROSECUTION

- Failure to comply with an Abatement Notice is a **criminal offence** and the Council will take a prosecution through the courts. If found guilty you will be liable on conviction to a maximum fine of £20,000 for each breach of the notice

Should you require any further information please do not hesitate to contact me on my direct line number 01303 853352 quoting job reference number WK/201522727.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Liam Flannery', with a long horizontal stroke extending to the right.

Mr. Liam Flannery
Environmental Protection Officer
Environmental Health

Ref: Mr. Liam Flannery / WK/201522727
Tel: 01303 853352
Fax: 01303 853294
Email: liam.flannery@shepway.gov.uk
Date: 12th May 2017

William Lim
Bank Bar,
Basement Business Premises,
2 Castle Hill Avenue,
Folkestone,
Kent,
CT20 2QT

Dear Mr William Lim

**Environmental Protection Act 1990 Notice
Bank Bar, Basement Business Premises, 2 Castle Hill Avenue,
Folkestone, Kent, CT20 2QT**

Following our meeting on 6/5/17, please note the attached statutory notice served upon you. This notice has been served because the Council, having witnessed noise emanating from the above premises at an unreasonable level during the early hours of the morning on 29/1/17, 29/4/17 and 6/5/17 and is satisfied of the likely reoccurrence of noise amounting to a Statutory Nuisance.

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Should you require any further information please do not hesitate to contact me on my direct line number 01303 853352 quoting job reference number WK/201522727.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Liam Flannery', with a long horizontal stroke extending to the right.

Mr. Liam Flannery
Environmental Protection Officer
Environmental Health

ENVIRONMENTAL PROTECTION ACT 1990, section 80

Abatement Notice In respect of a Statutory Noise Nuisance

To: Swee Leng Teong
Of: 26 Abbotts Road, Cheam, Surrey, SM3 9TA.

TAKE NOTICE that under the provisions of the Environmental Protection Act 1990 the **Shepway District Council** being satisfied of the reoccurrence of noise amounting to a statutory nuisance under section 79(1)(g) of that Act at:

Nearby residential premises

[within the District of the said Council] arising from **The Bank Bar, Basement Business Premises, 2 Castle Hill Avenue, Folkestone, Kent, CT20 2QT.**

HEREBY REQUIRE YOU as the person responsible for the said nuisance of the premises from which the noise is or would be emitted **forthwith** from the service of this notice, to abate the same and also **HEREBY PROHIBIT** the recurrence of the same

This is a notice to which paragraph (2) of Regulation 3 of the Statutory Nuisances (Appeals) Regulations 1990 applies and in consequence **IN** the event of an appeal this notice shall **NOT** be suspended until the appeal has been abandoned or decided by the Court, as, in the opinion of the Council, the expenditure which would be incurred by any person in carrying out works in compliance with this notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.

IF without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be guilty of an offence under section 80 (4) of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding level 5 on the Standard Scale **, together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after conviction. A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to an unlimited fine.

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

DATED: 12th May 2017



**Environmental Health
Shepway District Council
Civic Centre, Castle Hill Avenue
Folkestone, Kent CT20 2QY**

(Signed) _____
(Name) **Liam Flannery**
Environmental Protection Officer

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

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

- 1.(2) In these Regulations "the 1974 Act" means the Control of Pollution Act 1974;
"the 1990 Act" means the Environmental Protection Act; and
"the 1993 Act" means the Noise and Statutory Nuisance Act 1993.

APPEALS UNDER SECTION 80 (3) OF THE 1990 ACT

2.(1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.

(2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case -

- (a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
- (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
- (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;
- (d) that the time, or, where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
- (e) where the nuisance to which the notice relates -
 - (i) is a nuisance falling within section 79(1) (a), (d), (e), (f) or (g) of the 1990 Act and arises on industrial, trade or business premises, or
 - (ii) is a nuisance falling within section 79(1) (b) of the 1990 Act and the noise is emitted from a chimney, or
 - (iii) is a nuisance falling within section 79(1)(ga) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes,that the best practicable means were used to prevent, or to counteract the effects of, the nuisance;
- (f) that, in the case of a nuisance under section 79(1) (g) or (ga) of the 1990 Act (noise emitted from premises), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirement for the time being in force, in relation to the noise to which the notice relates, of
 - (i) any notice served under section 60 or 68 of the 1974 Act (control of noise on construction sites from certain premises), or
 - (ii) any consent given under section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise zone), or
 - (iii) any determination made under section 67 of the 1974 Act (noise control of new buildings),
- (g) that, in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the 1993 Act (loudspeakers in streets and roads);
- (h) that the abatement notice should have been served on some person instead of the appellant, being -
 - (i) the person responsible for the nuisance, or
 - (ii) the person responsible for the vehicle, machinery or equipment, or
 - (iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
 - (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises,
- (i) that the abatement notice might lawfully have been served on some person instead of the appellant being -
 - (i) in the case where the appellant is the owner of the premises, the occupier of the premises, or
 - (ii) in the case where the appellant is the occupier of the premises, the owner of the premises,and that it would have been equitable for it to have been so served;
- (j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being -
 - (i) a person also responsible for the nuisance, or
 - (ii) a person who is also an owner of the premises, or
 - (iii) a person who is also an occupier of the premises, or
 - (iv) a person who is also the person responsible for the vehicle, machinery or equipment,and that it would have been equitable for it to have been so served.

(3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(4) Where the grounds upon which an appeal is brought include a ground specified in paragraph (2) (i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.

(5) On the hearing of an appeal the court may -

- (a) quash the abatement notice to which the appeal relates, or
- (b) vary the abatement notice in favour of the appellant, in such manner as it thinks fit, or
- (c) dismiss the appeal;

and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been made by the local authority.

(6) Subject to paragraph (7) below, on the hearing of an appeal the court may make such order as it thinks fit -

- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
- (b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.

(7) In exercising its powers under paragraph (6) above, the court -

- (a) shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and
- (b) shall be satisfied before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

SUSPENSION OF NOTICE

3.(1) Where -

- (a) an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and -
- (b) either -
 - (i) compliance with the abatement notice would involve any person in expenditure on the carrying out of works before the hearing of the appeal, or
 - (ii) in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise caused in the course of the performance of some duty imposed by law on the appellant, and
- (c) either paragraph (2) does not apply, or if it does apply but the requirements of paragraph (3) have not been met, the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.

(2) This paragraph applies where -

- (a) the nuisance to which the abatement notice relates -
 - (i) is injurious to health, or
 - (ii) is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or
- (b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would be disproportionate to the public benefit to be expected in that period from such compliance,

(3) Where paragraph (2) applies the abatement notice -

- (a) shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by court, and
- (b) shall include a statement as to which of the grounds set out in paragraph (2) apply.

ENVIRONMENTAL PROTECTION ACT 1990, section 80

Abatement Notice In respect of a Statutory Noise Nuisance

To: William Lim

Of: The Bank Bar, Basement Business Premises, 2 Castle Hill Avenue, Folkestone, Kent, CT20 2QT

TAKE NOTICE that under the provisions of the Environmental Protection Act 1990 the **Shepway District Council** being satisfied of the reoccurrence of noise amounting to a statutory nuisance under section 79(1)(g) of that Act at:

Nearby residential premises

[within the District of the said Council] arising from **The Bank Bar, Basement Business Premises, 2 Castle Hill Avenue, Folkestone, Kent, CT20 2QT.**

HEREBY REQUIRE YOU as the person responsible for the said nuisance of the premises from which the noise is or would be emitted **forthwith** from the service of this notice, to abate the same and also **HEREBY PROHIBIT** the recurrence of the same

This is a notice to which paragraph (2) of Regulation 3 of the Statutory Nuisances (Appeals) Regulations 1990 applies and in consequence **IN** the event of an appeal this notice shall **NOT** be suspended until the appeal has been abandoned or decided by the Court, as, in the opinion of the Council, the expenditure which would be incurred by any person in carrying out works in compliance with this notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.

IF without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be guilty of an offence under section 80 (4) of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding level 5 on the Standard Scale **, together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after conviction. A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to an unlimited fine.

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

DATED: 12th May 2017



**Environmental Health
Shepway District Council
Civic Centre, Castle Hill Avenue
Folkestone, Kent CT20 2QY**

(Signed) _____
(Name) **Liam Flannery**
Environmental Protection Officer

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

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

- 1.(2) In these Regulations "the 1974 Act" means the Control of Pollution Act 1974;
"the 1990 Act" means the Environmental Protection Act; and
"the 1993 Act" means the Noise and Statutory Nuisance Act 1993.

APPEALS UNDER SECTION 80 (3) OF THE 1990 ACT

2.(1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.

- (2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case -
- (a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
 - (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
 - (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;
 - (d) that the time, or, where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
 - (e) where the nuisance to which the notice relates -
 - (i) is a nuisance falling within section 79(1) (a), (d), (e), (f) or (g) of the 1990 Act and arises on industrial, trade or business premises, or
 - (ii) is a nuisance falling within section 79(1) (b) of the 1990 Act and the smoke is emitted from a chimney, or
 - (iii) is a nuisance falling within section 79(1)(ga) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes,that the best practicable means were used to prevent, or to counteract the effects of, the nuisance;
 - (f) that, in the case of a nuisance under section 79(1) (g) or (ga) of the 1990 Act (noise emitted from premises), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirement for the time being in force, in relation to the noise to which the notice relates, of
 - (i) any notice served under section 80 or 86 of the 1974 Act (control of noise on construction sites from certain premises), or
 - (ii) any consent given under section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise zone), or
 - (iii) any determination made under section 67 of the 1974 Act (noise control of new buildings),or
 - (g) that, in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the 1993 Act (loudspeakers in streets and roads);
 - (h) that the abatement notice should have been served on some person instead of the appellant, being -
 - (i) the person responsible for the nuisance, or
 - (ii) the person responsible for the vehicle, machinery or equipment, or
 - (iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
 - (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises,or
 - (i) that the abatement notice might lawfully have been served on some person instead of the appellant being -
 - (i) in the case where the appellant is the owner of the premises, the occupier of the premises, or
 - (ii) in the case where the appellant is the occupier of the premises, the owner of the premises,and that it would have been equitable for it to have been so served;
 - (j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being -
 - (i) a person also responsible for the nuisance, or
 - (ii) a person who is also an owner of the premises, or
 - (iii) a person who is also an occupier of the premises, or
 - (iv) a person who is also the person responsible for the vehicle, machinery or equipment,and that it would have been equitable for it to have been so served.

(3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(4) Where the grounds upon which an appeal is brought include a ground specified in paragraph (2) (i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.

(5) On the hearing of an appeal the court may -

- (a) quash the abatement notice to which the appeal relates, or
- (b) vary the abatement notice in favour of the appellant, in such manner as it thinks fit, or
- (c) dismiss the appeal;

and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been made by the local authority.

(6) Subject to paragraph (7) below, on the hearing of an appeal the court may make such order as it thinks fit -

- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
- (b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.

(7) In exercising its powers under paragraph (6) above, the court -

- (a) shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and
- (b) shall be satisfied before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

SUSPENSION OF NOTICE

3.(1) Where -

- (a) an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and -

(b) either -

- (i) compliance with the abatement notice would involve any person in expenditure on the carrying out of works before the hearing of the appeal, or

(ii) in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise caused in the course of the performance of some duty imposed by law on the appellant, and

- (c) either paragraph (2) does not apply, or if it does apply but the requirements of paragraph (3) have not been met,

the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.

(2) This paragraph applies where -

- (a) the nuisance to which the abatement notice relates -

(i) is injurious to health, or

(ii) is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or

- (b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would be disproportionate to the public benefit to be expected in that period from such compliance,

(3) Where paragraph (2) applies the abatement notice -

- (a) shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by court, and

(b) shall include a statement as to which of the grounds set out in paragraph (2) apply.

Ref: WK/201712571
Tel: 01303 858660
Email: environmental.services@shepway.gov.uk
Date: 04 07 2017

Ms Swee Leng Teong
Bank Bar
Basement Business Premises
2 Castle Hill Avenue
Folkestone
Kent

Dear Ms Swee Leng Teong

Environmental Protection Act 1990
Bank Bar, Basement Business Premises, 2 Castle Hill Avenue, Folkestone, Kent,
CT20 2QT

Investigations into the above matter are on-going. **01/07/17 at 02:29hrs** an officer of the Council witnessed noise emanating from the above premises at an unacceptable volume. Namely the bass beat. The officer also witnessed further unreasonable noise from your patrons gathering on the adjacent footpath. You are reminded that this area should also be marshalled and the noise controlled appropriately.

In the event of further incidents the Council will consider the institution of legal proceedings against you in accordance with the above legislation. Such legal proceedings can result in:

- **Prosecution** for a criminal offence leading to a fine of up to £20,000 for each offence.

You are strongly advised to ensure that further disturbance does not occur from your premises.

In this event the breach mentioned above will be cited under any such proceedings.

The licensing team has also been made aware of this incident and they may take their own independent action.

Should you require any further information please do not hesitate to contact us on 01303 858660 quoting job reference number WK/201712571.

Yours sincerely



p.p.

Liam Flannery
Environmental Protection Officer
Environmental Health

Ref: WK/201712571
Tel: 01303 858660
Email: environmental.services@shepway.gov.uk
Date: 04 July 2017

Mr William Lim
Bank Bar
Basement Business Premises
2 Castle Hill Avenue
Folkestone
Kent
CT20 2QT

Dear Mr Lim

Environmental Protection Act 1990
Bank Bar, Basement Business Premises, 2 Castle Hill Avenue, Folkestone, Kent,
CT20 2QT

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Yours sincerely



p.p.

Liam Flannery
Environmental Protection Officer
Environmental Health

