

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Mr Morgan Sproates Environmental Protection Manager Environmental Health Thanet District Council Council Offices Cecil Street Margate Kent CT9 1XZ
Telephone number (if any) 01843 [REDACTED]
E-mail address (optional) [REDACTED]@thanet.gov.uk

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

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

I am calling for a review of the premises licence for The Gallery. The review is called under section 51 of the Licensing Act 2003. Our request for review is based on a breach of condition and that the use of the external area of the premises by patrons is causing a nuisance to surrounding premises.

Under the regulated entertainment section in the conditions of the premises licence, Condition 2 states: 'The noise from any entertainment must not be audible in any neighbouring or adjoining premises.' During a visit by noise officers on Saturday 29th April into Sunday 30th April music from The Gallery was clearly audible in a neighbouring residential premises. This breaches the condition as stated in the premises licence.

Our records show that the Police have witnessed a previous breach of condition in 2014 involving the playing of music beyond licenced hours.

We are receiving regular complaints concerning noise from the front of the Gallery reportedly involving patrons of The Gallery.

Please provide as much information as possible to support the application
(please read guidance note 2)

From a review of our records I note we have a history of complaints against the premises.

- In 2012 we received 2 complaints from the same household concerning amplified music. Neither complaint was progressed.
- In 2013 we received 4 complaints, 3 from different households concerning amplified music. None of the complaints were progressed.
- In 2014 we received 6 complaints from 2 different complainants. These covered a period from March to May. Their complaints covered music and patron noise. Our records show that on 31/3/14 my colleague (Ms Amanda Berry) spoke with the licence holder concerning noise. During the conversation my colleague raised with the premises licence holder a report by the Police concerning their attendance on 29/3/14. They had reported music still playing at 04:00 am when music should cease at 03:30 am. The reason given was that staff may have been confused on the clocks going back. It appears that the case was forwarded to Licensing for breach of condition. For the remaining complaints from 2014 no action was taken due to a lack of evidence.
- In 2015 we received one complaint which appeared spurious in nature.
- In 2016 we received 3 complaints from 2 households concerning music and patron noise. None of the complaints were progressed.
- During 2017 we have received 1 complaint. The complainant also made 2 of the complaints in 2016 and states that they are regularly affected by predominantly patron noise but also music. The 2017 case is being progressed and investigated as statutory nuisance.

While the majority of the historical complaints have not been acted on it does infer that music is audible in surrounding premises.

In regards to the investigation of our current case. On 24/02/17 Christopher Brown (CB) (Environmental Protection Officer) took part in a multi-agency enforcement night. During that evening Multi-agency Officers entered The Gallery. Prior to entering officers (Jade Malyn, Darren Dennett & another Police Officer) stood outside the premises, to the side, opposite the side of Boots High Street Store. The music was loud and clearly audible in the street. On completing the enforcement night CB walked up Hawley Street and across the traffic lights to proceed towards Cecil Street. On walking across Cecil Square and across the traffic lights opposite Union Crescent at approximately 22:00pm, patron noise and music was clearly audible at a distance of 75 metres from The Gallery. Following this visit CB and colleagues Jade Malyn (Licensing Officer) Darren Dennett (Police Licensing Officer) asked for a meeting with the licensee. This took place on Tuesday 28th February 2017 at the Council Offices. At the meeting the complaints Environmental Health had received were highlighted to the licensee and a brief discussion on 1) how The Gallery monitors noise from music and 2) the control of patron noise. The Licensee inferred that he would look at their practices.

On 27/03/2017 CB installed noise monitoring equipment in the home of the complainant. CB removed the equipment on 03/04/2017. On review of the recordings CB found 8 recordings from 31/3/17 at 22:49pm until 1/4/17 02:55am. CB stated that two of the recordings are clearly with windows open. Music can be heard at times

with the main source being patron noise. The local authority cannot confirm that the noise recorded is from The Gallery but are confident that the noise is from the Cecil Square area. The complainant confirmed that they operated the equipment on each occasion because of noise from The Gallery.

Following this installation CB wrote to The Gallery Premises Licence holder (Annex 1) concerning the installation of noise monitoring equipment. At the end of the letter CB stated that 'At this stage I would welcome a concerted effort to control patron noise in the external areas of your premises.'

As part of the complaint the complainant was given access to our out of hours service. On 29/04/2017 into 30/04/2017 Council Noise Officers visited a residential property within the Cecil Square area (Annex 2). During the visit they noted that music and patron noise was audible within a bedroom of the property. For music to be audible in the property is a clear breach of the premises licence conditions. The patron noise was reported as being audible in the property and came from patrons shouting.

During our investigation we have also been sent two videos by the complainant. CB has reviewed these videos and provided the following comments. The first video we received shows a disturbance on 19/03/17 outside The Gallery. The video contains a female voice shouting outside the gallery with the wooden tables and chairs being turned over by a male. It is unclear what attempts the staff at the Gallery are undertaking to resolve the matter other than putting the tables back in place. The second video shows the external area of the premises with patrons standing in a sectioned off area. From CB's review of the video, amplified voice and music is clearly audible which appears to emanate from the Gallery. There is also loud patron noise recorded from persons at the front of The Gallery. The video is taken from a residential property. It appears that the door staff at the Gallery are not taking any action to reduce noise. They do appear to engage in conversation with patrons but there is no reduction in noise. The videos are available to be reviewed by the licensee upon request.

Based on the evidence gathered to date it is my opinion that a specific licensing condition has been breached on a number of occasions and that patron noise from the front of the premises is an issue that requires control.

Clearly the current conditions and permitted times are not controlling noise from the premises.

Please tick yes

Have you made an application for review relating to this 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 this premises please state what they were and when you made them

Date 25th April 2017
Ref WK/201704698



Mr Dayne Gooding
Premises Licence Holder of
The Gallery
15 Cecil Square
Margate
Kent
CT9 1BD

Dear Mr Gooding,

Environmental Protection Act 1990 – Section 79(1)
Complaint of nuisance from music and patron noise at The Gallery, 15 Cecil Square, Margate, Kent

I write further to my letter of 06/02/17.

On 20/3/17 we received a video from the complainant concerning a disturbance outside The Gallery in the early hours of 19/3/17. The video shows a group of individuals turning over the tables outside the Gallery and causing a disturbance through shouting.

Subsequently I installed noise monitoring equipment in their property on 27/03/17 for a seven day period. I have now reviewed the recording and found 8 recordings covering a period from 22:49pm on 31/3/17 until 02:55am on 01/04/17. The recordings show a disturbance from shouting and some audible music from Cecil Square. While I cannot confirm myself that these recordings were associated with The Gallery and its patrons the complainant is adamant that the recordings are representative of what they are experiencing.

Based on the evidence to date I am concerned that patron noise from outside The Gallery in the late hours of Friday and Saturday and the early hours of Saturday Morning and Sunday morning is causing a disturbance to a neighbouring residential property. If we were to gather further evidence we may have to consider formal action through service of an abatement notice and / or calling for a review of the premises licence.

At this stage I would welcome a concerted effort to control patron noise in the external areas of your premises.

If you wish to discuss this matter further please contact me on the details below.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Christopher Brown".

Mr Christopher Brown - Environmental Protection Officer
01843 [REDACTED]
[REDACTED]@thanet.gov.uk

Thanet District Council
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Cecil Street
Margate
Kent
CT9 1XZ

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OUT OF HOURS NUISANCE CONTROL SERVICE – Record Sheet

OFFICER DETAILS

Name	XXXXXXXXXX	Date	29/4/14	SAT	day	AM	PM
Time Call Received	23.57	Call from	Complainant / Police / Standby				
Time Departure	00.05	Total Time Out	0.51				
Time Arrived at Site	00.20	Hours / Part Hours	1.00				
Time Left Site	00.46	Authorised by					
Time Returned Home	00.56						

DETAILS OF CALL

Complaint of:	AMPLIFIED MUSIC / ALARM / VEHICLE ALARM / ODOUR / SMOKE / OTHER	PATRON
Details of Complainant	XXXXXXXXXX	
Source of Complaint	THE CRAWLEY IS CECH SQ MARGATE.	

REPORT OF OFFICER

Description of Visit: ARRIVED BEFORE 5.0, SO OBSERVED THE CRAWLEY, APPROX 10/15 PATRONS SEATED + STANDING AROUND. V LOUD + SHOUTING/LAUGHING. MUSIC COULD BE HEARD, EVEN LOUDER WHEN PREMISES DOORS OPENED. ON ENTRY TO ~~XXXXXX~~. WE WENT UP 1st FLIGHT OF STAIRS TO LOUNGE, MUSIC/PATRON COULD BE HEARD. KOTU/RADIO ON + SINGLE CHALED WINDOWS. ~~XXXXXX~~ SAID IT GETS WORSE AROUND 3/4am. I OBSERVED CARS COMING + GOING. WENT UP ANOTHER FLIGHT OF STAIRS TO MAIN BEDROOM EXACTLY THE SAME, DIRECTLY ABOVE LOUNGE AT FRONT. MOST NOISE CAME FROM PATRONS, BUT MUSIC COULD BE HEARD CONSTANTLY. ~~XXXXXX~~ IS MAKING NOTES + HAS SOME CCTV.

ACTION TAKEN Tick

WITNESSED		NOTICE SERVED	
Completion Code		Pollution Case Office:	CB
Complaint No.	WK	Entered by:	LE

Admin: 1 copy (white) to House File

1 copy (pink) to Payroll

Premises Licence Review for The Gallery

Supporting information

Ref – 201420351

Telephone conversation – Amanda Berry & Mr Dayne Gooding on 31/3/17

Spoke with Mr Dayne Gooding (0[REDACTED]). Matter was also raised at the Margate Task Force meeting today by PC Phil Morley as officers were called there Saturday night (29/3/14) at around 04:00 am - licence allows music until 03.30 am. DG said that his member of staff working at the time may have been confused about the clocks moving forward. He checked his CCTV and there were periods when the front doors were held open by patrons. I suggested he consider installing a lobby door. He offered to pass his number onto the complainant.

