

# Licensing Sub- Committee Hearings

**Grand Jury Room, Town Hall  
28 June 2013 at 10.00am**

The Licensing Sub-Committee hears and determines applications made under the Licensing Act 2003. This includes licensing the sale of alcohol and the provision of a variety of licensable activities such as recorded music, stage plays and the showing of films.

# Information for Members of the Public

## Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at [www.colchester.gov.uk](http://www.colchester.gov.uk) or from Democratic Services.

## Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings with the exception of Standards Committee meetings.. If you wish to speak at a meeting or wish to find out more, please pick up the leaflet called "Have Your Say" at Council offices or at [www.colchester.gov.uk](http://www.colchester.gov.uk) .

## Private Sessions

Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

## Mobile phones, pagers, cameras, audio recorders

Please ensure that all mobile phones and pagers are turned off before the meeting begins and note that photography or audio recording is not permitted.

## Access

There is wheelchair access to the Town Hall from West Stockwell Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone (01206) 18001 followed by the full telephone number you wish to call, and we will try to provide a reading service, translation or other formats you may need.

## Facilities

Toilets are located on the second floor of the Town Hall, access via the lift. A vending machine selling hot and cold drinks is located on the ground floor.

## Evacuation Procedures

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

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e-mail: [democratic.services@colchester.gov.uk](mailto:democratic.services@colchester.gov.uk)  
[www.colchester.gov.uk](http://www.colchester.gov.uk)

## Licensing Sub-Committee Hearing Procedure for Hearings under the Licensing Act 2003

- (1) All questions and statements will be directed through the Chairman.
- (2) The Chairman will at the beginning of the Hearing explain to the parties the procedure to be followed and shall consider any request made by a party for permission for another person to appear at the Hearing.
- (3) The Hearing shall take the form of a discussion led by the Council's representative.
- (4) Cross examination shall not be permitted unless the Sub-Committee considers that cross-examination is required for it to consider the representations, application or notice as the case may be.
- (5) The Chairman of the Sub-Committee may require any person attending the Hearing who in his opinion is behaving in a disruptive manner to leave the Hearing and may:
  - (a) refuse to permit that person to return, or
  - (b) permit him to return only on such conditions as the Sub-Committee may specify.

Provided that any such person may before the end of Hearing submit to the Council in writing any information which they would have been entitled to give orally had they not been required to leave.

- (6) A party who wishes to withdraw any representations they have made may do so:
  - (a) by giving notice to the Council no later than 24 hours before the day or first day on which the Hearing is to be held, or
  - (b) orally at the Hearing.
- (7) The Sub-Committee in considering any representations or notice made by a party may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the Hearing, or with the consent of all other parties, at the Hearing.
- (8) The Sub-Committee shall disregard any information given by a party or any person to whom permission to appear at the Hearing had been given which is not relevant to:
  - (a) their application, representations or notice(as applicable) or in the case of another person, the application representations or notice of the party representing their appearance, and
  - (b) the promotion of the licensing objectives or, in relation to a Hearing to consider a notice given by a chief officer of police, the crime prevention objective.
- (9) If a party has informed the Council that he does not intend to attend or be represented at a Hearing, the Sub-Committee may decide to proceed with the Hearing in his absence.
- (10) If a party has not informed the Council that he does not intend or be represented at a Hearing and fails to attend or be represented at a Hearing, the Sub-Committee may:
  - (a) where it considers it to be necessary in the public interest adjourn the Hearing to a specified date ( notice being given forthwith to the parties concerned of the date, time and place to which the Hearing has been adjourned), or

(b) hold the Hearing in the party's absence

Where the Sub-Committee agrees to hold the Hearing in the absence of a party, the Sub-Committee shall consider at the Hearing the application, representations or notice made by that party.

The Council's case:-

(11) The Chairman will invite the Council's representative to summarise the report relating to the application under consideration.

The Applicant's case:-

(12) The Applicant and/or representative will begin with their opening remarks and present their case.

(13) The Applicant's witnesses (if any) will give evidence in support of the Applicant's case.

(14) The Applicant and/or representative may question the Applicant's witness again to clarify any points which may have arisen.

Submissions from other parties (these will include Interested Parties, Ward Councillors (who are an interested party themselves or are acting in the capacity as a representative of an Interested Party) and representatives from Responsible Authorities:-

(15) Each party will present their case.

(16) Each party's witnesses (if any) will give evidence in support of the party's case.

(17) Each party and their witnesses may be questioned by the Chairman and members of the Sub-Committee.

(18) Each party may question their witness again to clarify any points which may have arisen.

(19) If the Applicant or the interested parties wish to question each other, questions may be directed through the Chairman.

(20) Closing Statements may be made by the Applicant and/or representative.

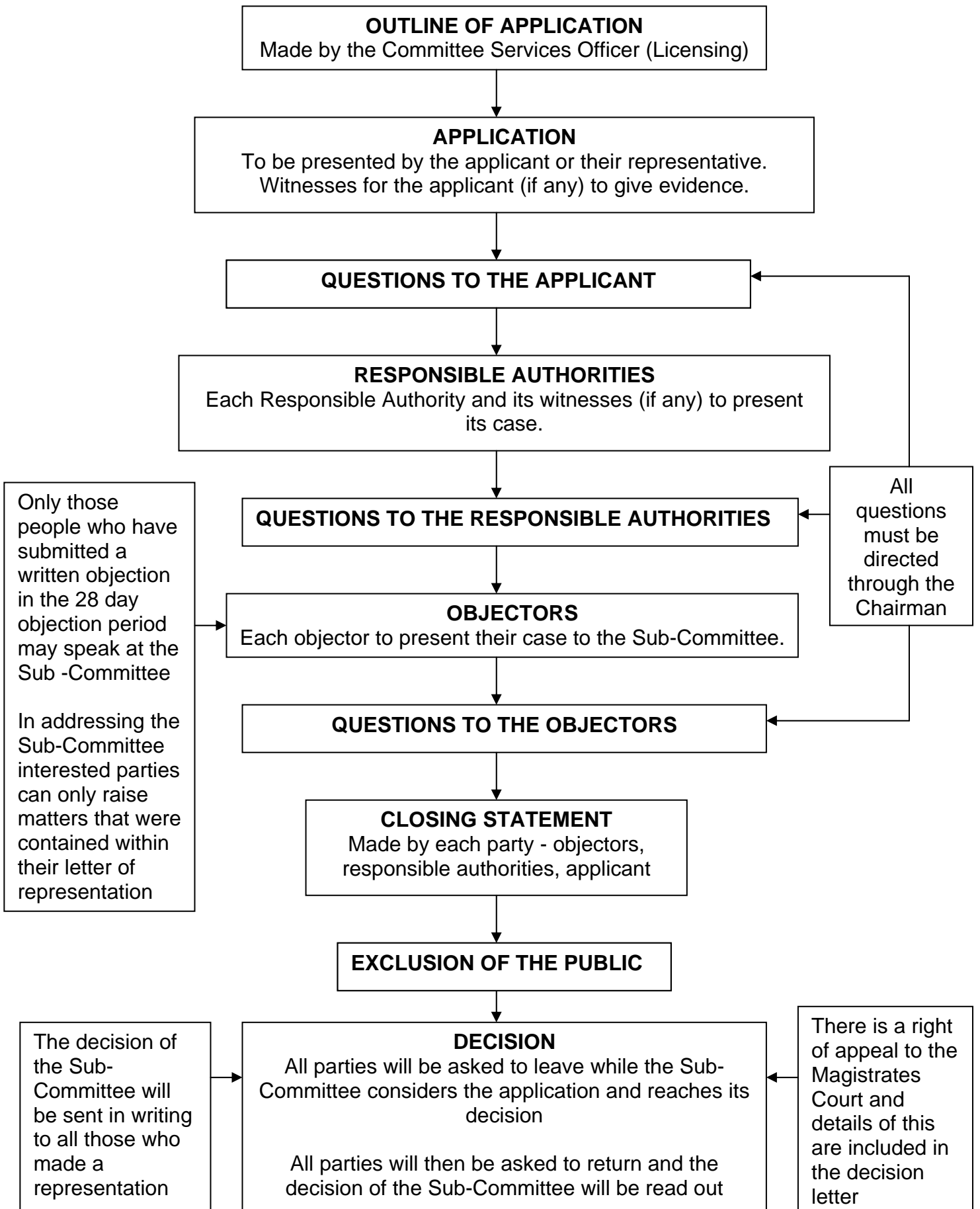
(21) The Chairman will ask the Legal Advisor whether there is anything else to be raised or settled before the proceedings are closed.

Determination of the application by the Sub- Committee

(22) The Applicant and/or representative, Interested Parties, Ward Councillors, Responsible Authorities and the members of the public and the press will leave the room to allow the Sub-Committee to determine the application. During this process the Sub-Committee members may ask for legal advice from the Legal Advisor.

(23) The Applicant and/or representative, Interested Parties and Ward Councillors, Responsible Authorities and the members of the public and the press will be invited to return to the room when the Sub-Committee's determination will be announced. Written details of the determination and the grounds upon which it is based will be sent to all parties concerned in accordance with the Hearings Regulations.

# The Licensing Sub-Committee Hearings Process



**COLCHESTER BOROUGH COUNCIL  
LICENSING SUB-COMMITTEE HEARINGS  
28 June 2013 at 10:00am**

**Members**

Chairman : Councillor Nick Cope.  
Councillors Mary Blandon and Brian Jarvis.

**Substitute Members** :

**Agenda - Part A**

(open to the public including the media)

**Pages**

**1. Appointment of Chairman**

To appoint the Chairman for the ensuing Municipal Year.

**2. Welcome and Announcements**

(a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;
- mobile phones switched to silent;
- the audio-recording of meetings;
- location of toilets;
- introduction of members of the meeting.

**3. Declarations of Interest**

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.

- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgment of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

#### **4. Minutes**

**1 - 14**

To confirm as a correct record the minutes of the meetings held on 23 March, 26 April and 24 May 2013.

#### **5. Applications under the Licensing Act 2003**

**15 - 41**

Bungalow Diner, 45 London Road, Marks Tey CO6 1EB





# COLCHESTER BOROUGH COUNCIL

## LICENSING SUB-COMMITTEE

22 March 2013

### MINUTES OF PROCEEDINGS

At a meeting of the Licensing Sub-Committee held on 22 March 2013 at 10.00 in the Grand Jury Room, Colchester Borough Council, Town Hall, High Street, Colchester

Present:- Councillor Cope  
Councillor Hazell

#### 1. Membership

*RESOLVED* that Councillor Cope be appointed Chairman.

#### 2. Declarations of Interest

There were no declarations of interest.

#### 3. Licensing Application

The Head of Environmental and Protective Services submitted a report in relation to the following application for determination by the Sub-Committee, in accordance with the provisions of the Licensing Act 2003.

- **Star Anglia Hotel, 75-79 North Station Road, Colchester**

The Sub-Committee considered an application to vary the premises licence in respect of the Star Anglia Hotel at 75-79 North Station Road, Colchester to permit regulated entertainment and late night refreshment at the premises and to amend the plan to include the conference facilities function rooms and bar.

#### In Attendance

Applicant	Mrs Karri, applicant Mr Surmak, company representative
Objectors	Councillor Barlow Councillor Frame
Licensing Authority	Mr S Swain, Enforcement Officer Mr C. Samuel, Legal Services Mrs S White, Licensing & Committee Co-ordinator

Prior to the hearing the applicant's consent had sort and obtained to conducting the Hearing with only two Councillors as one of the members of the Sub-Committee had been unable to attend.

Mrs White gave a brief summary of the application. The Sub-Committee noted that fifteen relevant representations had been received from interested parties including two from ward councillors and that these representations were concerned at the impact of the application on the licensing objectives of the prevention of public nuisance and to a lesser extent the prevention of crime and disorder. It was noted that a number of the representations referred to parking and highway matters but these were not within the remit of the Sub-Committee and could not be considered when reaching a decision on the application.

Mrs Karri presented the application and circulated a copy of her presentation to members of the Sub-Committee. Mrs Karri had been running the Globe Hotel and Mirchi Rasoi Indian Restaurant since 2006 and described her experience of running these premises and her intentions for the Star Anglia Hotel. It was hoped to establish the Hotel as a venue for weddings with guests staying overnight and also as conference venue. It was not anticipated that such activities would cause public nuisance to residents living in the area and Mrs Karri reiterated her wish to ensure that residents were not disturbed. To this end Mrs Karri proposed a number of conditions which would help to meet the concerns of residents and these were to restrict the use of the use of the car park to the rear of the premises to hotel guests only and to ensure that smoking took place only at the front of the premises and not at the rear in the car park or on the roof terrace. Mrs Karri informed the Sub-Committee that mechanical ventilation had been installed at the premises so that the windows could remain closed when events were taking place and that a noise limiting device would be installed to control noise levels.

Councillor Barlow addressed the Sub-Committee and expressed his concern that if the licence were granted as applied for it would lead to an increase in public nuisance for residents. Councillor Barlow was satisfied that noise from the premises could be controlled by the conditions agreed between the applicant and Environmental Protection but remained concerned that disturbance was likely to be caused by patrons leaving the premises. Councillor Frame drew the Sub-Committee's attention to the capacity figure of 262 people stated on the plan. Mrs Karri responded that she was not sure how that figure had been arrived at but that the maximum capacity of the conference area would be 120 persons. Further discussion took place regarding the proposed conditions and the use of the car park to the rear of the premises. Mrs Karri expressed her view that the sale of alcohol should be controlled and confirmed that at her premises the sale of alcohol was strictly controlled and she had not had any problems in the last 6 years.

*RESOLVED* to permit:-

- The provision of plays, live music, recorded music, performance of dance and anything of a similar description, facilities for making music and dancing and anything of a similar description, indoors, Mondays to Sundays from 10.00 to 00.00.
- The provision of late night refreshment Mondays to Sundays from 23.00 to 00.00.
- Amendment to the plan showing the licensable area to include the conference facilities, function rooms and bar subject to the condition that these areas will close for the sale of alcohol, regulated entertainment and late night refreshment at 00.00.

Subject to the following conditions that –

- The smoking area be located to the front of the premises and no smoking to be permitted at the rear of the premises or on the roof terrace.

- The car park to be used only by hotel residents.
- No outside events be permitted in the car park or on the roof terrace.
- The conditions agreed with Environmental Protection be included on the licence as set out in the report of the Environmental Protection Officer dated 5 February 2013 subject to the amendment of condition PPN 64 to read 'entrance and exit point' in place of 'exit point'.
- That the maximum occupancy of the conference room area be restricted to 120 persons.

### **Reasons for the Determination**

In arriving at the decision the Sub-Committee considered each point very carefully. It noted the representations, arguments and evidence presented by all parties including the applicant and other parties under the Licensing Act 2003 and considered the guidance issued under section 182 of the Licensing Act 2003 as amended and its own policy.

The Sub-Committee noted the conditions relating to noise nuisance already agreed with Environmental Protection and the conditions offered by the applicant in relation to the use of the car park being restricted to hotel residents; the reduction in hours for the sale of alcohol; and the maximum capacity figure for the conference room area. The Sub-Committee considered that these conditions imposed controls in respect of noise and adequately addressed the concerns of the residents and Ward Councillors.

There was a review procedure under the Licensing Act 2003 and legislation available to Environmental Control in the case of noise nuisance and in the event that problems occurred at the premises after the licence was granted.

### **5. Close of Meeting**

The meeting closed at 12.27pm.

**Chairman:**

# COLCHESTER BOROUGH COUNCIL

## LICENSING SUB-COMMITTEE

26 April 2013

### MINUTES OF PROCEEDINGS

At a meeting of the Licensing Sub-Committee held on 26 April 2013 at 10.00 in the Council Chamber, Colchester Borough Council, Town Hall, High Street, Colchester

Present:- Councillor Cope  
Councillor Jarvis  
Councillor Lilley

#### 1. Membership

*RESOLVED* that Councillor Cope be appointed Chairman.

#### 2. Declarations of Interest

Councillors Cope, Jarvis and Lilley declared their interest in the matter of the Old Library and Court Rooms on the grounds that it was a Council building and they were elected members of the Council.

#### 3. Minutes

The minutes of the meeting held on 8 March 2013 were confirmed as a correct record.

#### 4. Licensing Application

The Head of Environmental and Protective Services submitted a report in relation to the following application for determination by the Sub-Committee, in accordance with the provisions of the Licensing Act 2003.

- **Old Library and Court Rooms, West Stockwell Street, Colchester**

The Sub-Committee considered an application for the grant of a new premises licence in respect of the Old Library and Court Rooms, West Stockwell Street, Colchester to permit the supply of alcohol, the provision of regulated entertainment and the supply of late night refreshment.

#### In Attendance

Applicant	Mrs Pacheco, applicant
Objectors	Mrs Seymour Mrs Patten Mr Broen, for the Dutch Quarter Association

Responsible Authorities    Mr D Martin, Environmental Protection  
   Mr R Vickers, Essex Police  
Licensing Authority        Mrs S White, Licensing & Committee Co-ordinator  
   Mr C Samuel, Legal Services  
   Mr S Swain, Enforcement Officer

The Council's legal advisor Mr Samuel, read out this statement at the meeting "It may be argued that the Council has a corporate interest in this application in that it owns the building which is the subject of the application. However, the procedure for determining applications in these circumstances has been researched, and there is no provision other than for a decision on this application to be made by the Sub-Committee. However, the meeting will be held and the decision made solely on the basis of the Licensing objectives and on the merits of the case".

Mrs White briefly introduced the application. Eight representations and a petition had been received from other parties opposing the application. The petition was signed by residents of the Dutch Quarter authorising the Association to speak on their behalf and supported the representation that the Dutch Quarter Association has submitted. The Colchester Civic Society had not produced evidence to the Sub-Committee that it was authorised to speak on behalf of other persons and the Sub-Committee therefore accepted it as an individual representation from Mr Baines. Representations had been received from the Police and Environmental Protection at the start of the application's objection period and following discussions with the applicant the application had been amended to reduce the hours originally applied for and to include a number of additional conditions. The amended application was the one in front of the Sub-Committee for consideration at the Hearing. As a result of these negotiations and agreements there were no outstanding representations from any of the responsible authorities.

Mrs Pacheco gave details of the application and stated that there was no intention to provide a vertical drinking establishment. It was intended to provide a fine dining experience but at a modest price and the to provide a venue serving cocktails where people who wanted to stay out late but not go a club could come and socialise. It was explained that the application had been broad to cover all sorts of possible events being held at the premises but following further consideration and in light of the concerns expressed by residents she was happy to withdraw from the application the request for boxing and indoor sporting events. Mrs Pacheco explained that each area of the premises would be separate with its own entrance, reception and toilets. There would not be patrons moving between the various areas.

Concerns had been expressed in the representations regarding the possible future use of the premises as a nightclub in the event that the current proposed use failed or the premises changed hands. Mrs Pacheco explained the terms of the 21 year lease and confirmed their commitment to the building and to making the business work. The Sub-Committee noted that the terms of the lease of the building prohibited its use as a nightclub both for this tenant and any future tenant. It also noted that concern regarding the future use of the building was not a matter that it could lawfully consider in reaching its decision on this application. It was noted that the premises was currently the subject of a separate planning application. Clarification was sought on the location of the smoking area and Mrs Pacheco explained that this would be to the rear of the building by the entrance for disabled persons, this was off the road and past the graveyard.

Mr Broen, speaking on behalf of the Dutch Quarter Association, stated that it was not opposed to fine dining in the premises and welcomed the use of the building as a public

space but it would not wish to see it being used beyond 23.00. In response to the request for a much earlier terminal hour Mrs Pacheco responded that whilst she would love to be able to stop serving alcohol at 23.00, it was necessary to have a late licence to make the business viable as running a building of that size required considerable resources and alcohol would be served without food for only 4 hours a day. Mrs Seymour and Mrs Patten reiterated the point that they were not opposed to fine dining but to the other activities sort in the application and to the late hours. They mentioned that they were already disturbed by noise and this situation they believed would be exacerbated in the event that a late licence was granted. In response Mrs Pacheco stated that she would do all she could to ensure that residents were not adversely affected by the application.

*RESOLVED* To permit:-

- The supply of alcohol on the premises, the performance of plays, exhibition of films, performance of live music, playing of recorded music, performance of dance, other music or dance entertainment indoors for the following hours-

Old Library and the Courts

Mondays to Wednesdays from 12.00 to 01.00

Thursdays to Saturdays from 12.00 to 02.00

Sundays from 12.00 to 23.00

The Cells

Mondays to Saturdays from 12.00 to 23.59

Sundays from 12.00 to 23.00

Non Standard Times – St Valentine’s Day, Christmas Eve, Boxing Day and Halloween an additional hour and on New Year’s Eve from 12.00 to 02.00

- Provision of late night refreshment as follows-

Old Library and the Courts

Mondays to Wednesdays from 23.00 to 01.00

Thursdays to Saturdays from 23.00 to 02.00

The Cells

Mondays to Saturdays from 23.00 to 23.59

Non Standard Times – St Valentine’s Day, Christmas Eve, Boxing Day and Halloween an additional hour and on New Year’s Eve from 23.00 to 02.00

- Hours the premises are open to the public for the following hours-

Old Library and the Courts

Mondays to Wednesdays from 07.30 to 01.30

Thursdays to Saturdays from 07.30 to 02.30

Sundays from 07.30 to 23.30

The Cells

Mondays to Saturdays from 07.30 to 00.30

Sundays from 07.30 to 23.30

Non Standard Times – St Valentine’s Day, Christmas Eve, Boxing Day and Halloween an additional hour and on New Year’s Eve from 07.30 to 02.30

Subject to the following conditions being attached to the licence in addition to those outlined in the operating schedule -

#### Prevention of Crime and Disorder

- Steps to avoid vertical drinking.
- CCTV coverage interior and exterior to encompass all parts of premises, including non-sensitive areas of wash-rooms/lavatories. Plus necessary signage.
- CCTV digital storage minimum 30 days. Trained personal available during all opening times to interrogate and download recorded data for policing purposes.
- S.I.. Door Security to be employed during busier periods. (At the discretion of management but due diligence applies).
- Security measures.
  - ❖ Clicker counting both in and out
  - ❖ Discretionary access to ensure ambience reflects ‘Fine Dining’ experience.
  - ❖ Dress code.
  - ❖ Incident Book.
  - ❖ External ‘smoking area’ – not on public highway.
  - ❖ Fire evacuation and medical emergency training policy.
  - ❖ Drugs search and handling policy.

#### Protection of Children From Harm

- No under 18’s events.
- All persons under the age of 18 years to be accompanied by a responsible adult.
- Employ the ‘Challenge 25’ policy.

#### Prevention of Public Nuisance

- Window and doors closed by 23:00hrs.
- Empty bottles and glasses to be collected as soon as possible.
- No bottles or glasses are to be removed from premises and taken into smoking area by clientele.
- Sound level inhibitor on live and recorded music.
- Sign requesting clientele to leave quietly and respect local residents.
- Marshalls to patrol immediate vicinity especially towards ‘Dutch Quarter’

#### Condition agreed with Environmental Protection

Under no circumstances will any type of amplification be used regarding live music within the Old Library at any time.

#### Conditions imposed by the Sub-Committee

That patrons be directed to use the designated smoking area to the rear of the premises and away from West Stockwell Street.

The capacity of the premises should comply with the requirements of the Fire Authority.

### **Reasons for the determination**

In arriving at the decision the Sub-Committee considered each point very carefully. It noted the representations, arguments and evidence presented by all parties including the applicant and other parties under the Licensing Act 2003. The Sub-Committee considered the guidance issued under section 182 of the Licensing Act 2003 as amended and its own policy.

The Sub-Committee noted the condition relating to noise nuisance already agreed with Environmental Protection and the variety of additional conditions already agreed to address the concerns of the responsible authorities and other parties. The applicant had also reduced the hours sought in the application and in response to concerns raised by objectors the applicant had removed from the application the reference to indoor sporting events and boxing or wrestling entertainment.

The Sub-Committee had borne in mind the concerns of residents regarding smoking in West Stockwell Street and determined to impose a condition that patrons be directed to use the designated smoking area to the rear of the premises and away from West Stockwell Street.

The Sub-Committee found that the applicant had proposed adequate controls consistent with the proposed use of the premises and was satisfied that the most appropriate way forward was to grant the application subject to the operating schedule and to the relevant mandatory conditions in the Licensing Act 2003 and all those listed above.

The Sub-Committee also reminded all parties that they had the right to request a review if problems occurred once the new licence was in operation. Parties had the right of appeal against this decision.

## **5. Close of Meeting**

The meeting closed at 4.00pm.

**Chairman:**



# COLCHESTER BOROUGH COUNCIL

## LICENSING SUB-COMMITTEE

26 April 2013

### MINUTES OF PROCEEDINGS

At a meeting of the Licensing Sub-Committee held on 26 April 2013 at 14.00 in the Council Chamber, Colchester Borough Council, Town Hall, High Street, Colchester

Present:- Councillor Cope  
Councillor Jarvis  
Councillor Lilley

#### 1. Membership

*RESOLVED* that Councillor Cope be appointed Chairman.

#### 2. Declarations of Interest

There were no declarations of interest.

#### 3. Licensing Application

The Head of Environmental and Protective Services submitted a report in relation to the following application for determination by the Sub-Committee, in accordance with the provisions of the Licensing Act 2003.

- **Shop and Off Licence, Unit 5 Solus Development, William Harris Way, Colchester**

The Sub-Committee considered an application for the grant of a new premises licence in respect of the Shop and Off Licence at Unit 5, Solus Development, William Harris Way, Colchester to permit the sale of alcohol off the premises.

#### In Attendance

Applicant	Mr Russell Butcher, Counsel for the applicant Mr M Gok, applicant Mr O Sezek
Objectors	Ms Taylor, resident Mr Clark on behalf of Mr Shepherd, resident
Licensing Authority	Mrs S White, Licensing & Committee Co-ordinator Mr C Samuel, Legal Services Mr S Swain, Enforcement Officer

Mrs White gave a brief summary of the application. The Sub-Committee noted that six representations had been received in respect of the application, four opposed the granting

of the licence (one of these representations comprised two letters) and one was in support of the application. Essex Police had requested a number of conditions which were agreed by the applicant in advance of the hearing. The Sub-Committee also had regard to the letter from the Solus and Quarters Residents' Association which indicated that it had canvassed resident's opinion on the application and had concluded that those located some distance from the shop generally supported the application whilst those living in close proximity were opposed to the grant of a licence.

Mr Butcher, on behalf of the applicant set out the experience of the applicant Mr Gok, in running a licensed premises and also that of his business partner, Mr O Sezek. They both held a personal licence and would be working in the shop initially. The shop was intended to be a local convenience store selling alcohol alongside other goods and newspapers. The position of the CCTV cameras was discussed and the management of the premises. It was mentioned that the hours sought were necessary in order to maximise trade.

Ms Taylor, in addressing the Sub-Committee set out the problems there had been in the area in the past with youths congregating and causing problems. Ms Taylor expressed concern that if the licence was granted this would lead to a reoccurrence of the problems. It was mentioned that there were a number of other premises selling alcohol close by and Ms Taylor did not consider there was a need for this premises to sell alcohol. Furthermore she suggested that the hours of opening be restricted to 8am to 6pm. Ms Taylor stated that she did not oppose the convenience store but that this should not be established at a cost to local residents of the loss of their privacy and peace. Mr Clark in addressing the Sub-Committee reiterated that the opening hours were too long and should be reduced.

*RESOLVED* to permit the sale of alcohol off the premises and for the premises to be open Mondays to Sundays from 07.00 to 22.00

Subject to the following conditions, previously agreed with Essex Police, that –

1. The premises will operate Challenge 25 for the sale of alcohol, requiring all those who appear to be under 25 years of age to be asked for identification and all staff in the store trained in its operation. Signs will be placed predominately in the store informing customers that Challenge 25 is in operation on the premises. There will also be signs informing customers that it is an offence to buy alcohol on behalf of a person under the age of 18.
2. A refusal book will be kept on the premises and available for inspection by Police and authorised Council Officers.
3. A high quality digital CCTV system will be installed and maintained to cover the whole of the shop floor, including the areas to be used for the self-service display of alcoholic beverages, and immediate areas outside the building where young people may congregate. The codec format of digital computers must be available to Police officers and authorised Council officers in order to download images. Recorded data gained by CCTV will be kept for a minimum of 31 days. Sufficient staff will be trained in the use of the CCTV system.
4. Any beers, lagers or ciders with an ABV content higher than 6.5% will not be sold by single can but only in quantities of 4 cans or more.

### **Reasons for the Determination**

In arriving at the decision the Sub-Committee considered each point very carefully. It weighed the representations, arguments and evidence presented by all parties under the

Licensing Act 2003 and had regard to the Section 182 guidance, as amended, and its own policy.

It was noted that some of the concerns raised within the representations were not matters that came within the remit of the Sub-Committee when determining the application. These matters included the consideration of the need for the premises and the fact that there were other similar premises nearby; and the ability to restrict the opening times of the shop.

The Sub-Committee was satisfied that the concerns raised were adequately addressed by the applicants' operating schedule modified to include the conditions requested by Essex Police and it was not felt the proposals compromised any of the four licensing objectives.

All parties were reminded that they had the right to request a review if problems occurred once the new licence was in operation and the objectors were encouraged to maintain a constructive dialogue both with the applicants and the Police.

## **5. Close of Meeting**

The meeting closed at 4.00pm.

**Chairman:**

# COLCHESTER BOROUGH COUNCIL

## LICENSING SUB-COMMITTEE

24 May 2013

### MINUTES OF PROCEEDINGS

At a meeting of the Licensing Sub-Committee held on 24 May 2013 at 01.30pm in the Grand Jury Room, Colchester Borough Council, Town Hall, High Street, Colchester

Present: - Councillor Cope  
Councillor Fairley-Crowe  
Councillor Lilley

#### 1. Membership

*RESOLVED* that Councillor Cope be appointed Chairman.

#### 2. Declarations of Interest

There were no declarations of interest.

#### 3. Licensing Application

The Head of Environmental and Protective Services submitted a report in relation to the following application for determination by the Sub-Committee, in accordance with the provisions of the Licensing Act 2003.

- **Kings Arms, 63 Crouch Street, Colchester**

The Sub-Committee considered an application to vary the premises licence in respect of the Kings Arms, 63 Crouch Street, Colchester to the creation of a new servery (outside bar) and cold cellar in the existing barn to the rear of the premises.

#### In Attendance

Applicant	Mr A Evans, Counsel for the applicant Mr R Calderbank, business Development Manager, Greene King Mr M Deveney, Manager of the Kings Arms
Objectors	Councillor Frame Councillor Hayes
Licensing Authority	Mr M Nelson, Food Safety and Licensing Manager Mr S Swain, Enforcement Officer Mr C. Samuel, Legal Services Mrs S White, Licensing & Committee Co-ordinator

Mrs White gave a brief summary of the application. The Sub-Committee noted that the application was for an extension of the licensed area to include a new servery (outside bar) and cold cellar in the existing barn to the rear of the site and at the back of the external

courtyard. The bar was to be located at the front of the barn and open out into the courtyard through the existing double doors. The conditions and hours on the licence were unaffected by the application.

In presenting the application, Mr Evans explained the nature and operation of the pub and its clientele. The premises had been managed by Mr Deveney and his wife, who was the Designated Premises Supervisor, for 10 years. Its clientele tended to be older than the average and Mr Adams mentioned that the premises had the third highest level of sales of Pimms in the country which seemed to be consistent with and compliment the large outside drinking area. The potential for this area to cause disturbance to local residents had been recognised in previous applications and as a result the licence already had a condition limiting the number of outside music events to no more than four per year. The music on these occasions stopped by 18.00 and notification of the event was given to local residents in the vicinity. There was no intention to increase the number of outside events as a result of the current application.

Mr Deveney explained the reasoning behind the application which was to relieve the pressure of the existing bar which on busy days could be surrounded by a crowd 7 to 8 persons deep waiting to be served. The new bar would take orders for food and drink and would also facilitate staff serving patrons at their tables. The suggestion of Environmental Protection to stop serving from the outside bar at 21.00 was accepted by the applicant. Mr Deveney stated that he did not expect the new bar to significantly change the nature of the business. The garden was already very well used and entry was restricted by staff if necessary with doorstaff only being used when events were taking place. Clarification was sought on the letter that was circulated to local residents and Mr Deveney confirmed that they went to every house in the immediate vicinity of the pub.

Mr Milham, Environmental Control Officer, gave a history of the noise complaints that had been received in relation to the premises. In terms of the day to day operation of the premises there had only been three isolated complaints and none of these had been followed up by the complainants. In total there had been 8 complaints from 3 residents in the last 13 years. Conditions had been agreed with the applicant in advance of the hearing but in the interests of clarity it was suggested that the wording of these be amended to control the use of the outside area after 23.00 to help avoid disturbance to local residents.

Councillor Frame addressed the Sub-Committee on the details of his letter of representation which was concerned with the creation of the outside servery and the potential increase in noise nuisance which he believed would occur if the licence was granted due to the increased interaction between customers and staff in this area. Councillor Hayes addressed the Sub-Committee on her representation and asked that the complaints log, which had been circulated by the applicant's representative, be amended and in future contain far more factual information. Councillor Hayes reported that she had on occasions heard music and other noise from the premises and she considered that there was a noise problem at the premises. Councillor Hayes explained how she had ascertained, on several occasions, from where the noise emanated.

*RESOLVED* to permit the creation of a new servery (outside bar) and cold cellar in the existing barn to the rear of the premises and at the back of the external courtyard. The bar to be located at the front of the barn and open out into the courtyard through the existing double doors subject to the following conditions –

1. No use of the outside bar after 21.00.

2. No patrons be permitted in the outside area from 23.00, with the exception of those using the smoking area.
3. No bottles or glasses be permitted in the smoking area after 23.00.
4. The licence holder maintains a complaints book to include the nature of each complaint, its time and date and the action to be taken and a record of action taken on each complaint.

### **Reasons for the Determination**

In arriving at the decision the Sub-Committee considered each point very carefully. It noted the representations, arguments and evidence presented by all parties including the applicant and other parties under the Licensing Act 2003 and had regard to the section 182 guidance, as amended, and to its own Licensing Policy.

The Sub-Committee being familiar with the area found that there were residential properties to the rear of the premises and that some noise complaints had been received from residents in the past.

The Sub-Committee was mindful that its decision must be an appropriate and proportionate response aimed at the promotion of the licensing objectives. The Sub-Committee therefore approved the conditions agreed by the applicant with Environmental Protection as amended at the Hearing and considered that these were adequate, together with an additional condition offered by the applicant in relation to keeping a complaints book, to address the concerns raised.

All parties were reminded that they have the right to request a review if problems occurred once the new licence was in operation. Parties have the right of appeal against this decision.

### **5. Close of Meeting**

The meeting closed at 15.47.

**Chairman:**



<b>Licensing Committee – 28 June 2013</b>	<b>Agenda Item 5</b>
<b>Bungalow Diner</b>	<b>FOR GENERAL RELEASE</b>

<b>Premises</b>	Bungalow Diner 445 London Road Marks Tey CO6 1EB	Ward: Marks Tey Stress Area: No Civica Ref: 080013 Author: Martin Nelson
<b>Application</b>	Application for a new premises licence to permit the supply of alcohol and the provision of regulated entertainment and entertainment activities as follows- Live music Recorded music Performance of dance And anything of a similar description	Appendix 1
<b>Street Plan</b>		Appendix 2
<b>Interested Parties</b>		
Local Resident Parish Council	Objections	Appendix 3

<p><b>New Application for a Premises Licence</b></p> <p>To permit:-</p> <p>The supply of alcohol on the premises for the following hours-</p> <p style="padding-left: 40px;">Mondays to Sundays inclusive from 09.00 to 23.00</p> <p>Provision of live music, playing of recorded music, performance of dance and anything of a similar description for the following hours-</p> <p style="padding-left: 40px;">Mondays to Sundays inclusive from 11.00 to 23.00</p> <p>The premises are open to the public for the following hours-</p> <p style="padding-left: 40px;">Mondays to Sundays inclusive from 06.00 to 23.00</p>
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## **Colchester Borough Council's Statement of Licensing Policy**

### **Assessing Applications**

**Boxed bold type** refers to policy and to matters that the Licensing Authority would generally expect or encourage to see addressed in the applicant's operating schedule, where reasonable, proportionate or appropriate. Passages of text that are not in bold are provided to assist applicants to understand what the Licensing Authority is seeking to achieve to positively promote the four licensing objectives, the factors that influence the achievement of those objectives and the examples of best practice that could be implemented by the applicant to achieve that outcome.

Paragraph **3.8** of the Council's Statement of Licensing Policy recognises that "the new Licensing Act 2003 has brought with it great expectations and challenges, not least of which has been the extension of opening hours for licensed premises such as clubs, pubs, bars and takeaways".

The Policy goes on to add in paragraph **3.9** that "however, along with the great expectations and opportunities for business expansion, the Licensing Act has also brought with it the responsibilities of the four licensing objectives for all the stakeholders concerned in this venture".

### **Policy**

Paragraph **3.10** of Colchester Borough Council's statement of Licensing Policy advises that:

**The Licensing Authority wishes to work with the licensed trade to promote best practice, the responsible consumption of alcohol and the effective management of licensed premises. It will therefore consider sympathetically any applications for extended licensing hours from well-operated, well managed premises, whose operating schedules responsibly reflect how they are going to effectively promote the four licensing objectives.**

Paragraph **3.11** of Colchester Borough Council's statement of Licensing Policy also advises that:

**Premises that submit new applications, or applications to extend their opening hours, or vary their licensable activities whose operating schedules do not clearly demonstrate that they are well run, effectively managed and are responsibly operated in accordance with the four licensing objectives, should ordinarily expect such applications to be challenged by those responsible authorities as defined by the Act.**

### **Prevention of Public Nuisance**

Paragraph **5.21** of the Council's statement of Licensing Policy advises that "some licensed premises have the potential to have a significant negative impact on communities through the public nuisances that may arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the potential consequences of the operation of licensed premises that are not effectively or responsibly managed, whilst at the same time it recognises the valuable cultural, social and business importance that the vast majority of licensed premises provide to local communities". 16



Paragraph 5.22 of the Council's statement of Licensing Policy goes on to advise that "the Licensing Authority therefore intends to interpret 'public nuisance' in its widest sense and takes it to include such issues as noise, disturbance, light, odour, litter and alcohol related anti-social behaviour, where these matters impact on people living, working or otherwise engaged in normal activity in the immediate vicinity of the licensed premises".

### **Policy**

Paragraph 5.23 of the Policy states that:

**Where relevant representations have been received, and in considering applications for review, the Licensing Authority will take into account the following factors:**

- (i) The potential for nuisance associated with the style, characteristics and activities for the proposed licensable activities to be carried on at the premises, and the potential steps that could be taken to reduce the risk of nuisance occurring. This particularly may apply where residents live in the immediate vicinity of the premises;**
- (ii) Whether operating schedules contain adequate measures to prevent noise and vibration, either air-borne or structure-borne, and which are generated from within the premises or outside it, causing disturbance to people in the immediate vicinity of the premises. Regard will be given to disturbance of people whether at home or at work or otherwise staying in or visiting that area. Stricter conditions on noise control will be imposed in areas that have denser residential accommodation or residents living in the immediate vicinity of the premises.**

Two representations in relation to this licensing objective have been received; one from a local resident and one from Marks Tey Parish Council. The objections express concern at the potential disturbance that may result in the event that the licence is granted.

### **Additional Policy Guidance – Public Nuisance**

The Council's statement of Licensing Policy goes on to give the following policy advice in relation to the promotion of the Prevention of Public Nuisance licensing objective

Paragraph 5.27 of the Policy states that:

**The Licensing Authority encourages applicants to set out in their operating schedules the steps taken or proposed to be taken to deal with the potential for public nuisance arising from the operations of the premises.**

Paragraph 5.28 of the Policy states that:

**When addressing the issue of prevention of public nuisance, where it is reasonable, proportionate and necessary to do so, the applicant should demonstrate that those factors that may impact on the likelihood of public nuisance have been considered.**

**These may include:**

- The location of the premises and proximity to residential and other**

noise sensitive premises, such as hospitals, hospices and places of worship.

- The hours of opening between 11.00pm and 7.00am.
- 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 the premises.
- The design and layout of the premises; particularly the presence of noise limiting features.
- The provision of toilet facilities on the premises.
- The safe capacity of the premises.
- The availability of public transport or taxis.
- A wind down period between the end of the licensable activities and closure of the premises.
- The last admission time.

### **Additional Policy Guidance – General**

The following additional policy guidance is taken from the Council's statement of Licensing Policy and is included in this report for the advice and information of the Licensing Sub-Committee, the applicant and for any other interested party concerned with this application.

#### **Areas outside of the Stress Area Policy**

Paragraph 3.103 of the Policy states that:

**The absence of a stress area policy for a particular area does not prevent any responsible authority or interested party making representations on a new application for the grant or variation of a premises licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. However where no relevant representations are received the application must be granted automatically.**

Paragraph 3.104 of the Policy states that:

**Applications outside of the Stress Area will be judged on their own individual merits, but the Licensing Authority may take into consideration the following:**

- (i) Existing levels and concern about crime and disorder or public nuisance, and the impact that the proposed use will have on a locality.**
- (ii) The proximity of residential properties to the proposed use.**

#### **Rural Areas**

Paragraph 3.105 of the Council's statement of Licensing Policy states that "within the rural areas of the Borough, there are a number of village halls, community facilities,

local pubs and shops that make an important contribution to the social, recreational and cultural life of rural communities and as such are key in sustaining their vibrancy and viability. A number of these benefit from premises licences which allows for the sale of alcohol and the provision of regulated entertainment. There are also a number of shops and pubs that have off-licence facilities”.

Paragraph **3.106** of the Council's statement of Licensing Policy states that it “is keen to maintain the provision of active and vibrant rural community facilities, including public houses, village halls, church halls, community centres and village shops and welcomes the provision of additional similar facilities”.

Paragraph 3.107 of the Policy states that:

**Therefore where reasonable, proportionate or appropriate to do so, the Licensing Authority will endeavour to apply a light touch, risk assessed approach to applications for Village Hall or Community Centres in particular, in order that regulatory conditions are only applied in instances where it is needed to promote one or more of the licensing objectives.**

Paragraph **3.108** of the Council's statement of Licensing Policy states that “it is important to realise that with most contested premises licence applications, it is likely that a balance may have to be struck between the rights of those community or commercial facilities and the customers who wish to enjoy those facilities, with the rights of residents living in the immediate vicinity of such premises to enjoy their homes and possessions in peace”.

### **Human Rights Implications**

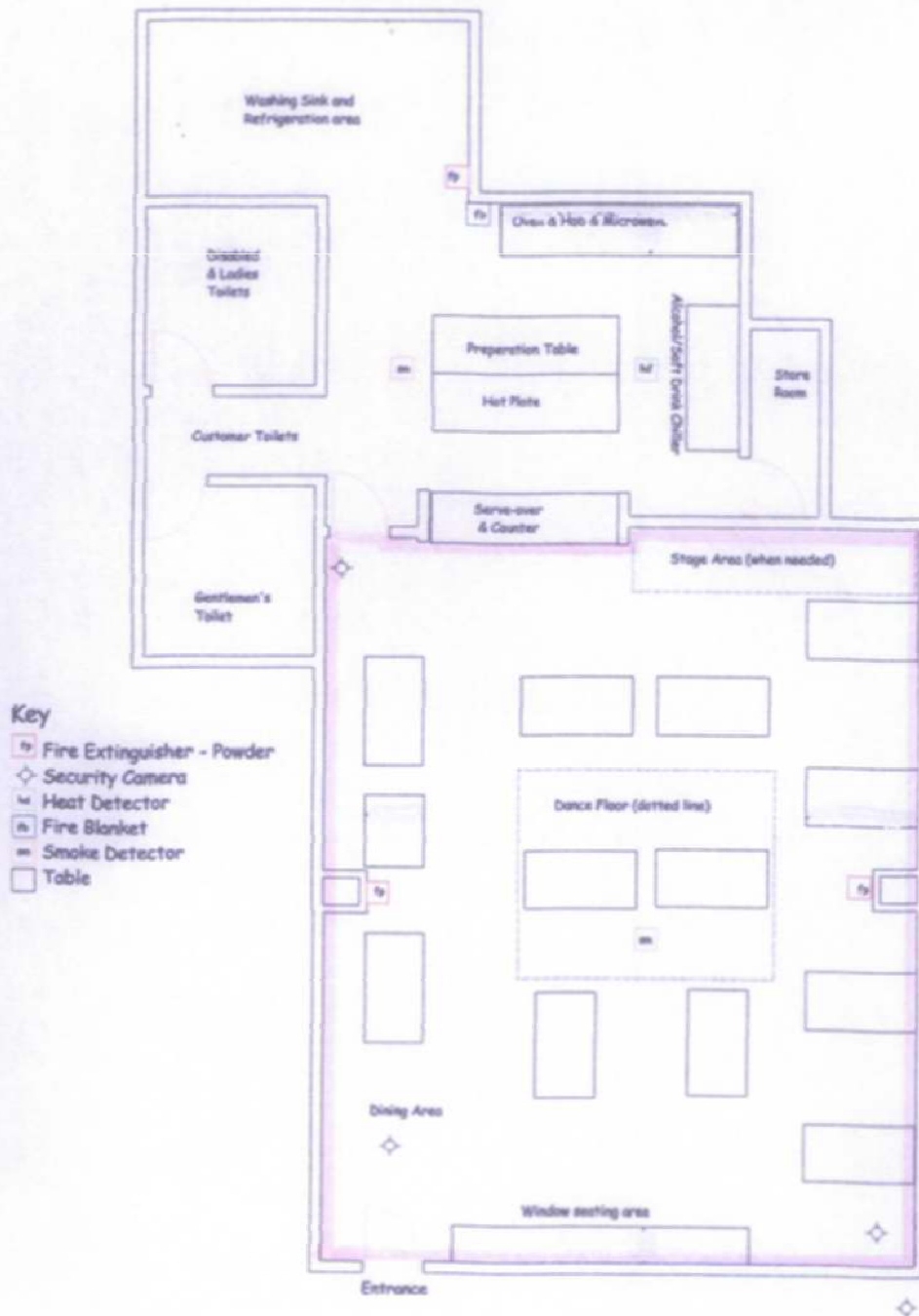
A Licence is to be regarded as the property of the applicant; however their right to the use of that property must be balanced against all other public interests or representations in this matter that the Licensing Sub-Committee may wish to consider reasonable and proportionate in relation to the application that has been submitted and also the representations that have been received against it.

In making their decision as to whether to grant this application, Members of the Licensing Sub-Committee should in particular consider Article 1 of the First Protocol of the Human Rights Act 1998, that individuals are entitled to the peaceful enjoyment of their property and also Article 8 that everyone has the right to respect for his private and family life, his home and his correspondence.

### **Crime and Disorder Implications**

Section 17 of the Crime and Disorder Act 1998 imposes a duty on local authorities when exercising any of their functions to have due regard to the likely effect of the exercise of those functions on, and the need to do all it possibly can to prevent, crime and disorder in its area.

The Guidance issued by the Secretary of State for Culture, Media and Sport under the Licensing Act 2003 underlines the importance of the provisions of Section 17 when considering applications for premises licences under the new licensing legislation and in particular if a local authority is considering having a policy regarding the issue of new licences in areas where there may have been concerns about crime and disorder issues put forward by local residents and or the Police and the Council are considering the cumulative effect of the number of licences in existence in a designated area.



Bungalow Diner, 45 London Road, Marks Tey,  
Colchester, Essex, CO6 1EB.  
Scale- 1:100, Drawing Reference; RB/0795  
Drawn by: R Baker - RB Retail & Licensing Ltd  
7<sup>th</sup> May 2013

The entire dining area to be licensed for alcohol consumption on the premises. Copyright – RB Retail & Licensing Services Limited, 23 Magister Drive, Lee on the Solent, Portsmouth, PO123 8GE, Site dimensions to be used at all times.

**COLCHESTER BOROUGH COUNCIL**

**Application for a premises licence to be granted  
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 MASHUKUR RAHMAN

*(Insert name(s) of applicant)*

**apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003**

**Part 1 – Premises Details**

Postal address of premises or, if none, ordnance survey map reference or description			
<b>BUNGALOW DINER 45 LONDON ROAD MARKS TEY</b>			
<b>Post town</b>	<b>COLCHESTER</b>	<b>Postcode</b>	<b>CO6 1EB</b>

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£8200

**Part 2 - Applicant Details**

Please state whether you are applying for a premises licence as

Please tick as appropriate

- a) an individual or individuals \*  please complete section (A)
- b) a person other than an individual \*
  - i. as a limited company  please complete section (B)
  - ii. as a partnership  please complete section (B)
  - iii. as an unincorporated association or  please complete section (B)
  - iv. other (for example a statutory corporation)  please complete section (B)
- c) a recognised club  please complete section (B)

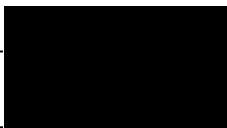
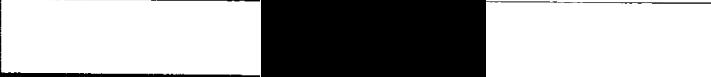
- d) a charity  please complete section (B)
- e) the proprietor of an educational establishment  please complete section (B)
- f) a health service body  please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales  please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England  please complete section (B)
- h) the chief officer of police of a police force in England and Wales  please complete section (B)

\* If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a statutory function or
- a function discharged by virtue of Her Majesty's prerogative

**(A) INDIVIDUAL APPLICANTS** (fill in as applicable)

Mr <input checked="" type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b> RAHMAN			<b>First names</b> MASHUKUR		
I am 18 years old or over				<input checked="" type="checkbox"/>	Please tick yes
Current postal address if different from premises address		91 LONDON ROAD MARKS TEY			
Post town	COLCHESTER		Postcode	CO6 1DT	
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					

**SECOND INDIVIDUAL APPLICANT (if applicable)**

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b>			<b>First names</b>		
I am 18 years old or over					<input type="checkbox"/> Please tick yes
Current postal address if different from premises address					
Post town				Postcode	
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					

**(B) OTHER APPLICANTS**

**Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.**

Name
Address
Registered number (where applicable)
Description of applicant (for example, partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

**Part 3 Operating Schedule**

When do you want the premises licence to start?

DD	MM	YYYY
0	7	062013

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD	MM	YYYY

Please give a general description of the premises (please read guidance note 1)

THESE ARE NEWLY ESTABLISHED PREMISES ACQUIRED BY THE APPLICANT TO TRADE AS A DINER TYPE RESTUARANT WITH FACILITIES FOR TAKEAWAY. THE PREMISES HAD PREVIOUSLY CEASED TRADING FOR SOME 9 MONTHS. THE PREMISES OFFER A DINING AREA OPEN TO THE PUBLIC IN EXCESS OF 890 SQUARE FEET SERVING BOTH THE LOCAL COMMUNITY AND THOSE FROM FURTHER AFIELD. THE ESTABLISHMENT OFFERS AN EXCELLENT MENU WITH A REGULARY CHANGED SELECTION OF COOKED MEALS AND SNACKS PREPARED ON THE PREMISES THROUGHOUT THE DAY. MUSIC AND DANCING & OTHER ENTERTAINMENTS ARE ALSO TO BE PROVIDED AT SELECTED TIMES ON AN OCCASIONAL BASIS. ADDITIONALLY, TO COMPLEMENT THE CUISINE, A SELECTION OF BEERS, WINES & SPIRITS ARE PLANNED TO BE OFFERED.

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick any 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 6)			<b>Will the performance of a play take place indoors or outdoors or both – please tick</b> (please read guidance note 2)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon				Both	<input type="checkbox"/>
Tue				<b>Please give further details here</b> (please read guidance note 3)	
Wed					
Thur			<b>State any seasonal variations for performing plays</b> (please read guidance note 4)		
Fri					
Sat			<b>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</b> (please read guidance note 5)		
Sun					

**B**

<b>Films</b> Standard days and timings (please read guidance note 6)			<b>Will the exhibition of films take place indoors or outdoors or both – please tick</b> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>Please give further details here</b> (please read guidance note 3)		
Mon					
Tue					
<b>Wed</b>			<b>State any seasonal variations for the exhibition of films</b> (please read guidance note 4)		
Thur					
<b>Fri</b>			<b>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</b> (please read guidance note 5)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 6)			<u>Please give further details</u> (please read guidance note 3)
Day	Start	Finish	
Mon			
Tue			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 4)
Wed			
Thur			<u>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</u> (please read guidance note 5)
Fri			
Sat			
Sun			

**D**

<b>Boxing or wrestling entertainments</b> Standard days and timings (please read guidance note 6)			<b><u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 2)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon				<b><u>Please give further details here</u></b> (please read guidance note 3)	
Tue					
Wed			<b><u>State any seasonal variations for boxing or wrestling entertainment</u></b> (please read guidance note 4)		
Thur					
Fri			<b><u>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</u></b> (please read guidance note 5)		
Sat					
Sun					

**E**

Live music Standard days and timings (please read guidance note 6)			Will the performance of live music take place <b>indoors or outdoors or both – please tick</b> (please read guidance note 2)	Indoors	X	
Day	Start	Finish		Outdoors	<input type="checkbox"/>	
				Both	<input type="checkbox"/>	
Mon	11.00	23.00	<b>Please give further details here</b> (please read guidance note 3) LIVE MUSIC WILL BE PERFORMED FROM TIME TO TIME TO CATER FOR SPECIAL OCCASION BOOKINGS. SHOULD A SOUND AMPLIFICATION SYSTEM BE REQUIRED A SUITABLE NOISE LIMITER WILL BE INSTALLED. THE MUSIC WILL BE PERFORMED INDOORS WITH DOORS AND WINDOWS CLOSED EXCEPT FOR INGRESS/EXIT AFTER 20.00 HOURS			
Tue	11.00	23.00				
Wed	11.00	23.00		<b>State any seasonal variations for the performance of live music</b> (please read guidance note 4)		
Thur	11.00	23.00				
Fri	11.00	23.00		<b>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</b> (please read guidance note 5)		
Sat	11.00	23.00				
Sun	11.00	23.00				

**F**

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place <b>indoors or outdoors or both – please tick</b> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 3)		
Mon	11.00	23.00			
Tue	11.00	23.00			
Wed	11.00	23.00	<b>State any seasonal variations for the playing of recorded music</b> (please read guidance note 4)		
Thur	11.00	23.00			
Fri	11.00	23.00	<b>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</b> (please read guidance note 5)		
Sat	11.00	23.00			
Sun	11.00	23.00			

**G**

<b>Performances of dance</b> Standard days and timings (please read guidance note 6)			<b>Will the performance of dance take place indoors or outdoors or both – please tick</b> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>Please give further details here</b> (please read guidance note 3)		
Mon	11.00	23.00			
Tue	11.00	23.00			
			<b>State any seasonal variations for the performance of dance</b> (please read guidance note 4)		
Wed	11.00	23.00			
Thur	11.00	23.00			
			<b>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</b> (please read guidance note 5)		
Fri	11.00	23.00			
Sat	11.00	23.00			
Sun	11.00	23.00			

**H**

<b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment you will be providing		
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>Will this entertainment take place indoors or outdoors or both – please tick</b> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Mon	11.00	23.00		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue	11.00	23.00	<b>Please give further details here</b> (please read guidance note 3)		
Wed	11.00	23.00	<b>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</b> (please read guidance note 4)		
Thur	11.00	23.00	<b>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</b> (please read guidance note 5)		
Fri	11.00	23.00			
Sat	11.00	23.00			
Sun	11.00	23.00			



I

<b>Late night refreshment</b> Standard days and timings (please read guidance note 6)			<b>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</b> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 3)		
Mon					
Tue					
Wed			<b><u>State any seasonal variations for the provision of late night refreshment</u></b> (please read guidance note 4)		
Thur					
Fri			<b><u>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</u></b> (please read guidance note 5)		
Sat					
Sun					

**J**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 6)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 7)	On the premises	<input checked="" type="checkbox"/>			
				Off the premises	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 4)					
Mon	09.00	23.00						
Tue	09.00	23.00						
Wed	09.00	23.00						
Thur	09.00	23.00						
Fri	09.00	23.00						
Sat	09.00	23.00						
Sun	09.00	23.00						
						<b>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</b> (please read guidance note 5)		

**State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor:**

Name MASHUKUR RAHMAN	
Address  91 LONDON ROAD MARKS TEY COLCHESTER	
Postcode	CO6 1DT
Personal licence number (if known) 004382	
Issuing licensing authority (if known) COLCHESTER BOROUGH COUNCIL	

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 8).**

L

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 6)			<b>State any seasonal variations</b> (please read guidance note 4)
Day	Start	Finish	
Mon	06.00	23.00	<p><b><u>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</u></b> (please read guidance note 5)</p>
Tue	06.00	23.00	
Wed	06.00	23.00	
Thur	06.00	23.00	
Fri	06.00	23.00	
Sat	06.00	23.00	
Sun	06.00	23.00	

**M** Describe the steps you intend to take to promote the four licensing objectives:

**a) General – all four licensing objectives (b, c, d and e) (please read guidance note 9)**

- 1) CCTV SYSTEM WITH RECORDING FACILITIES IN PLACE AT SITE WITH A 28 DAY RECORDING LIBRARY MADE AVAILABLE TO THE POLICE UPON REASONABLE REQUEST,
- 2) APPROPRIATE STAFF TRAINING TO BE SATISFACTORILY COMPLETED AND RECORDED,
- 3) ALL ALCOHOL TO BE SERVED VIA A STAFF MEMBER TO THE CUSTOMERS TABLE,
- 4) TRAINING RECORDS CAN BE MADE AVAILABLE FOR INSPECTION UPON REASONABLE REQUEST BY A RELEVANT OFFICER OF A RESPONSIBLE AUTHORITY,
- 5) APPROPRIATE TRAINING MANUAL TO BE UTILISED,
- 6) REFUSALS BOOK TO BE OPERATED,
- 7) CHALLENGE 21 AND PASS ACCREDITED PROOF OF AGE INITIATIVE TO BE OPERATED BY ALL STAFF,
- 8) NOTICES TO BE DISPLAYED REQUESTING CUSTOMERS RESPECT LOCAL RESIDENTS WHEN LEAVING THE PREMISES PARTICULARLY AT NIGHT,
- 9) ALL EXTERNAL DOORS AND WINDOWS MUST BE KEPT CLOSED, OTHER THAN FOR ACCESS & EGRESS, IN THE ROOM WHERE EVENTS INVOLVING AMPLIFIED SOUND ARE TAKING PLACE AFTER 20.00 HOURS.
- 10) THE LICENCE HOLDER OR HIS REPRESENTATIVE SHALL CONDUCT REGULAR ASSESSMENTS OF THE NOISE FROM THE PREMISES ON EVERY OCCASION THE PREMISES ARE USED FOR REGULATED ENTERTAINMENT AND SHALL TAKE ACTION TO REDUCE THE LEVEL OF NOISE WHERE IT IS LIKELY TO CAUSE A DISTURBANCE TO LOCAL RESIDENTS,
- 11) A LOG SHALL BE KEPT OF THESE CHECKS WITH DATE/TIME, THE PERSON CHECKING, AND DETAILS OF ANY REMEDIAL ACTION TAKEN,
- 12) NO ALCOHOL WILL BE SUPPLIED TO CUSTOMERS AFTER 22:30 HOURS – PAYMENT IS NORMALLY MADE AT TIME OF DEPARTURE.

**b) The prevention of crime and disorder**

- 1) CCTV SYSTEM WITH RECORDING FACILITIES IN PLACE AT SITE WITH A 28 DAY RECORDING LIBRARY MADE AVAILABLE TO THE POLICE UPON REASONABLE REQUEST,
- 2) APPROPRIATE STAFF TRAINING TO BE SATISFACTORILY COMPLETED AND RECORDED,
- 3) ALL ALCOHOL TO BE SERVED VIA A STAFF MEMBER TO THE CUSTOMERS TABLE,
- 4) TRAINING RECORDS CAN BE MADE AVAILABLE FOR INSPECTION UPON REASONABLE REQUEST BY A RELEVANT OFFICER OF A RESPONSIBLE AUTHORITY,
- 5) APPROPRIATE TRAINING MANUAL TO BE UTILISED,
- 6) REFUSALS BOOK TO BE OPERATED,
- 7) CHALLENGE 21 AND PASS ACCREDITED PROOF OF AGE INITIATIVE TO BE

OPERATED BY ALL STAFF,

**c) Public safety**

- 1) CCTV SYSTEM WITH RECORDING FACILITIES IN PLACE AT SITE WITH A 28 DAY RECORDING LIBRARY MADE AVAILABLE TO THE POLICE UPON REASONABLE REQUEST,
- 2) APPROPRIATE STAFF TRAINING TO BE SATISFACTORILY COMPLETED AND RECORDED,
- 3) ALL ALCOHOL TO BE SERVED VIA A STAFF MEMBER TO THE CUSTOMERS TABLE,
- 4) TRAINING RECORDS CAN BE MADE AVAILABLE FOR INSPECTION UPON REASONABLE REQUEST BY A RELEVANT OFFICER OF A RESPONSIBLE AUTHORITY,
- 5) APPROPRIATE TRAINING MANUAL TO BE UTILISED,
- 6) REFUSALS BOOK TO BE OPERATED,
- 7) CHALLENGE 21 AND PASS ACCREDITED PROOF OF AGE INITIATIVE TO BE OPERATED BY ALL STAFF,
- 12) NO ALCOHOL WILL BE SUPPLIED TO CUSTOMERS AFTER 22:30 HOURS – PAYMENT IS NORMALLY MADE AT TIME OF DEPARTURE.

**d) The prevention of public nuisance**

- 8) NOTICES TO BE DISPLAYED REQUESTING CUSTOMERS RESPECT LOCAL RESIDENTS WHEN LEAVING THE PREMISES PARTICULARLY AT NIGHT,
- 9) ALL EXTERNAL DOORS AND WINDOWS MUST BE KEPT CLOSED, OTHER THAN FOR ACCESS & EGRESS, IN THE ROOM WHERE EVENTS INVOLVING AMPLIFIED SOUND ARE TAKING PLACE AFTER 20.00 HOURS.
- 10) THE LICENCE HOLDER OR HIS REPRESENTATIVE SHALL CONDUCT REGULAR ASSESSMENTS OF THE NOISE FROM THE PREMISES ON EVERY OCCASION THE PREMISES ARE USED FOR REGULATED ENTERTAINMENT AND SHALL TAKE ACTION TO REDUCE THE LEVEL OF NOISE WHERE IT IS LIKELY TO CAUSE A DISTURBANCE TO LOCAL RESIDENTS,
- 11) A LOG SHALL BE KEPT OF THESE CHECKS WITH DATE/TIME, THE PERSON CHECKING, AND DETAILS OF ANY REMEDIAL ACTION TAKEN,

**e) The protection of children from harm**

- 2) APPROPRIATE STAFF TRAINING TO BE SATISFACTORILY COMPLETED AND RECORDED,
- 3) ALL ALCOHOL TO BE SERVED VIA A STAFF MEMBER TO THE CUSTOMERS TABLE,
- 4) TRAINING RECORDS CAN BE MADE AVAILABLE FOR INSPECTION UPON REASONABLE REQUEST BY A RELEVANT OFFICER OF A RESPONSIBLE AUTHORITY,

- 5) APPROPRIATE TRAINING MANUAL TO BE UTILISED,  
 6) REFUSALS BOOK TO BE OPERATED,  
 7) CHALLENGE 21 AND PASS ACCREDITED PROOF OF AGE INITIATIVE TO BE OPERATED BY ALL STAFF,

**Checklist:**


**Please tick to indicate agreement**

- I have made or enclosed payment of the fee. X
- I have enclosed the plan of the premises. X
- I have sent copies of this application and the plan to responsible authorities and others where applicable. X
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable. X
- I understand that I must now advertise my application. X
- I understand that if I do not comply with the above requirements my application will be rejected. X

**IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING 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 4 – Signatures** (please read guidance note 10)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (see guidance note 11).  
**If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	8 <sup>TH</sup> MAY 2013
Capacity	DULY AUTHORISED AGENT

**For joint applications, signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant’s solicitor or other authorised agent** (please read guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)

RICHARD BAKER  
RB RETAIL & LICENSING SERVICES LIMITED  
23 MAGISTER DRIVE  
LEE ON THE SOLENT

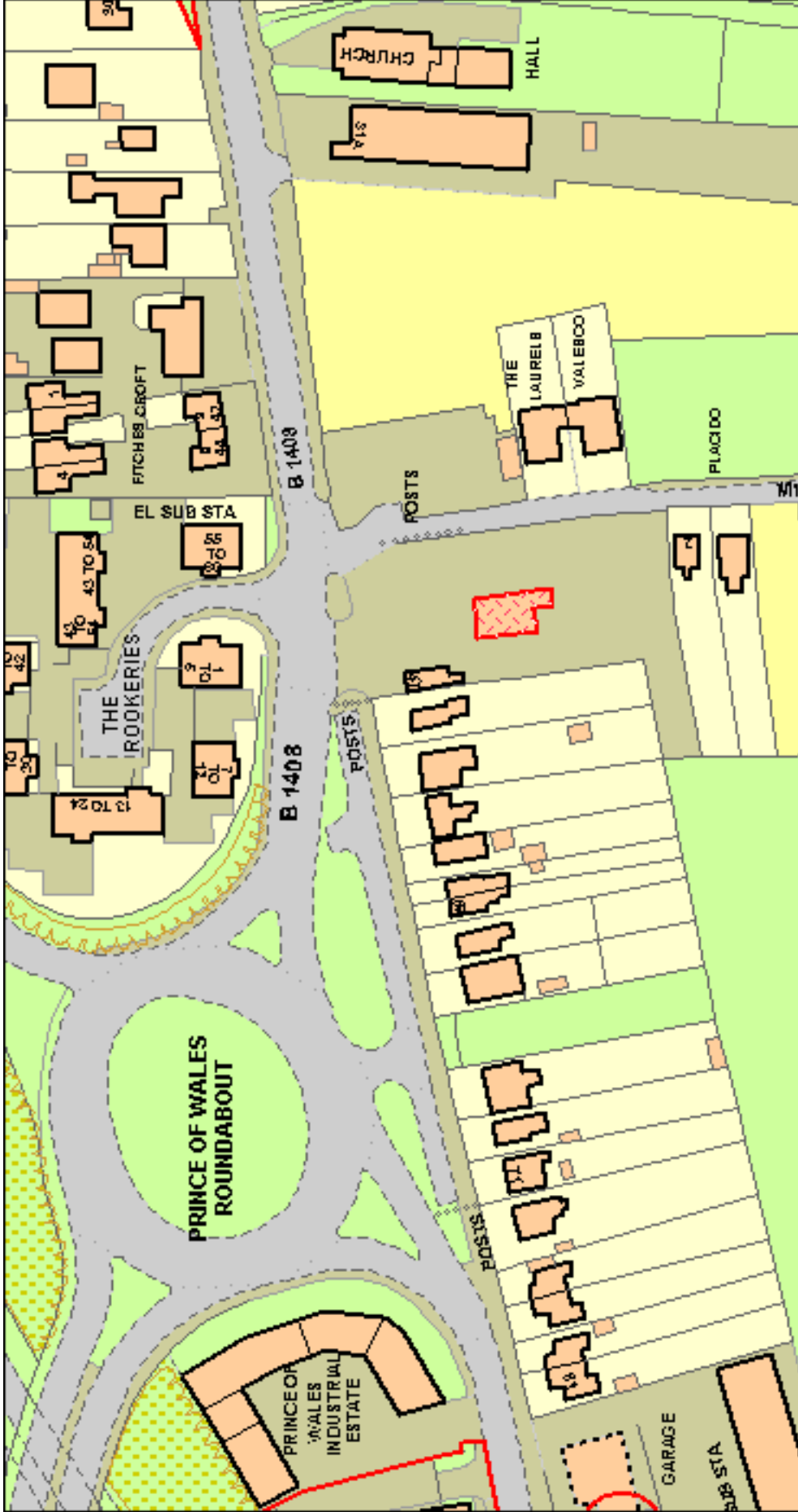
Post town	PORTSMOUTH	Postcode	PO13 8GE
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### Notes for Guidance

1. Describe the premises, for example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
3. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
8. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, each of the applicant or their respective agent must sign the application form.
13. This is the address which we shall use to correspond with you about this application.

# Premises Location Plan



Licence Application Reference: 080013

Premises Name & Address: Bungalow Diner 45 London Road Marks Tey Colchester

Date Produced: 14 June 2013

MAP NOT TO SCALE

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### APPENDIX 3

Licensing Enforcement Officer  
Colchester Borough Council  
Environmental & Protective Services  
33 Sheepen Road  
Colchester

Dear Stephen Swain.

I live at xxxxxx, I would like you to know that I strongly object to them having a license to sell alcohol and facilities for entertainment, as far as I am aware there is only 1 toilet inside the diner so I presume they would have to build toilets which they do not have permission for, this is a residential area and staying open till 11 o'clock at night and selling alcohol is not acceptable, I can only imagine the noise the rubbish and upset that this is going to cause, all the families around the diner area have children and I am dreading hearing people roaring round the carpark into the night.

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At their recent Planning Meeting the Parish Council resolved to object to the Licence Application at Bungalow Diner, 45 London Road, Marks Tey. The Parish Council remarked we've already got rid of one nightclub with the closing of the nightclub in Copford so we don't want another one. It is generally felt the music and dance does not complement the quiet neighbourhood the café is situated in.

Roger Bradshaw BSc CiLCA MILCM  
Clerk and Responsible Financial Officer  
Marks Tey Parish Council  
Council Offices  
Old London Road  
Marks Tey  
CO6 1EJ

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e-mail: [licensing.committee@colchester.gov.uk](mailto:licensing.committee@colchester.gov.uk)  
website: [www.colchester.gov.uk](http://www.colchester.gov.uk)