

Licensing Sub- Committee Hearings

**Grand Jury Room, Town Hall
29 May 2009 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 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 .

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

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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.

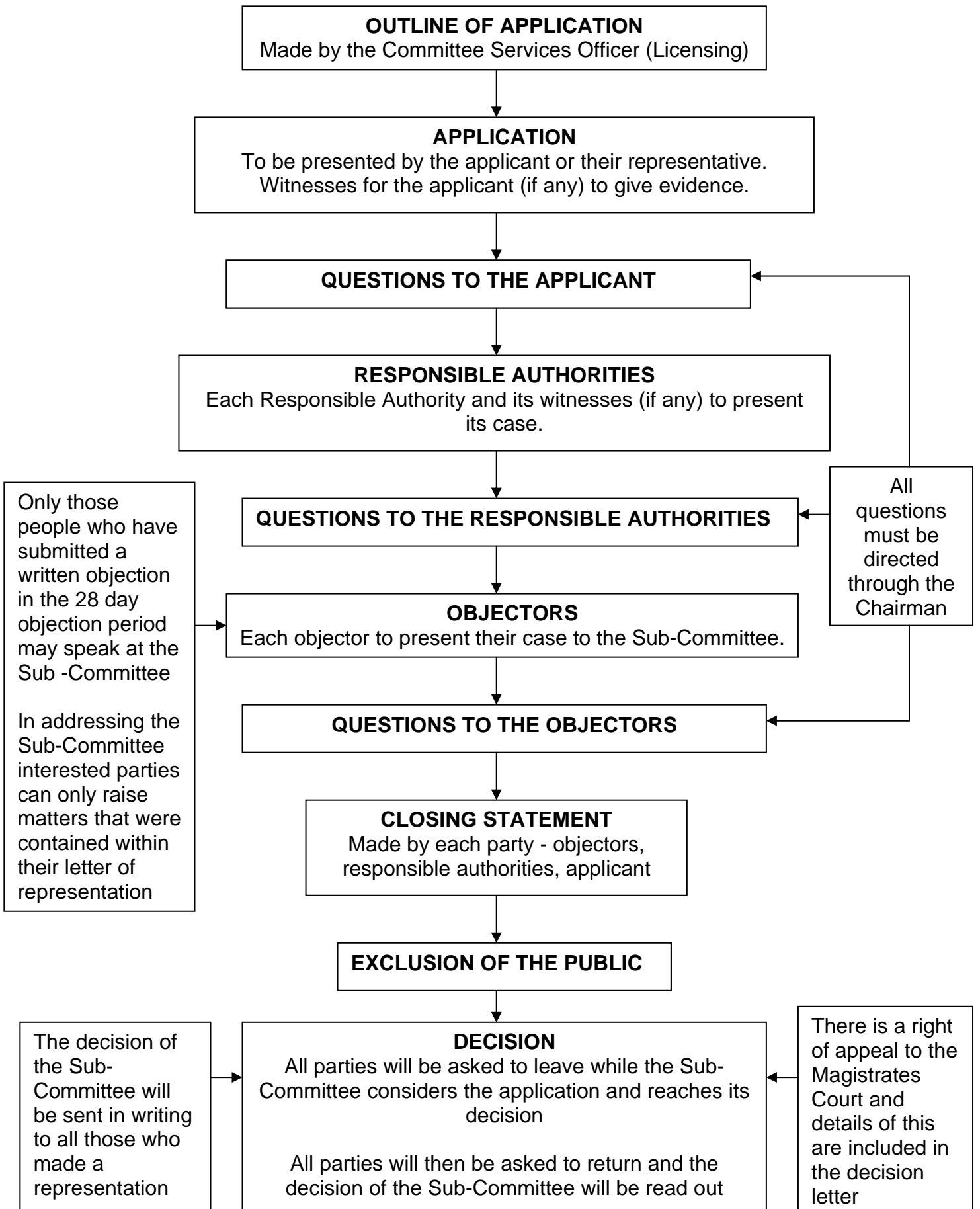
(21) The Chairman will ask the Legal Advisor whether there is anything else to be raised or settled before the proceedings are closed.

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
29 May 2009 at 10:00am**

Members

Councillors Barrie Cook, Christopher Garnett and Ann Quarrie.
(Chairman and Deputy Chairman to be appointed at first meeting)

Substitute Members :

Agenda - Part A
(open to the public including the media)

Pages

1. Appointment of Chairman

To appoint a Chairman of the meeting.

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 to off or silent;
- location of toilets;

3. Declarations of Interest

The Chairman to invite Councillors to declare individually any personal interests they may have in the items on the agenda.

If the personal interest arises because of a Councillor's membership of or position of control or management on:

- any body to which the Councillor has been appointed or nominated by the Council; or
- another public body

then the interest need only be declared if the Councillor intends to speak on that item.

If a Councillor declares a personal interest they must also consider

whether they have a prejudicial interest. If they have a prejudicial interest they must leave the room for that item.

If a Councillor wishes to make representations on an item on which they have a prejudicial interest they may do so if members of the public are allowed to make representations. In such circumstances a Councillor must leave the room immediately once they have finished speaking.

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Councillors should consult paragraph 7 of the Meetings General Procedure Rules for further guidance.

4. Minutes

1 - 10

To confirm as a correct record the minutes of the meeting held on 27 February and 9 April 2009.

5. Applications under the Licensing Act 2003

- a. The Cherry Tree Public House, Mersea Road, Blackheath, Colchester, Essex CO2 0BY

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LICENSING SUB-COMMITTEE HEARINGS

27 FEBRUARY 2009

Present :- Councillor Barrie Cook (Chairman)
Councillors Christopher Garnett and Philip Oxford

1. Membership

The Committee Services Officer (Licensing) advised that there were no changes to the membership.

2. Appointment of Chairman

RESOLVED that Councillor Cook be appointed Chairman.

3. Declarations of Interest

There were no declarations of interest.

4. Minutes

The minutes of the meetings held on 24 October 2008 and 5 December 2008 were noted.

5. Application for a Review under the Licensing Act 2003

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.

6. Yates's Wine Lodge, 1-3 Head Street, Colchester, Essex

The Sub-Committee considered an application for the review of a premises licence in respect of Yates's in relation to the following licensing objective -

- Prevention of crime and disorder

In Attendance

Premises Licence Holder: Miss Grant represented by Ms Eames, Solicitor and Mr Walten (Area Manager) for Yates's

Responsible Authority: On behalf of Essex Police – Mr Aitchison, Divisional Police Licensing Officer and Inspector Paul Butcher
Officers: Mr Essex, Solicitor and Mr Harvey, Licensing Manager
Mrs White, Committee Services Officer (Licensing), briefly introduced the application made by Essex Police to review the premises licence of Yates's, 1-3 Head Street, Colchester. The review had been sought on the grounds of the prevention of crime and disorder. A condition imposed on the premises licence required one of the SIA registered door supervisors to wear a head camera when employed by Yates's. This condition had not been complied with despite meetings and letters of advice from the Police. In addition Yates's had one of the highest levels of incidents of crime and disorder in Colchester Town Centre and these incidents included reports of the use of excessive force by door supervisors towards customers on several occasions.

Mr Aitchison addressed the Sub-Committee on behalf of Essex Police and explained that the requirement to wear a head camera had been attached to the licence following an application to vary the premises licence. Following an allegation of assault at the premises the police had spoken to the DPS and explained the need for greater supervision of the door staff. This matter together with a number of others was the subject of further conversations and liaison between the Police, the Designated Premises Supervisor and the Area Manager for Yates's however the situation did not improve and in December 2008 a further warning letter was sent which made it clear that the police was considering an application to review the licence. The decision to review the licence was taken after a visit to the premises found a further breach of the terms of the licence.

Following the application to review the licence there had been a number of meetings between the Police and the new Area Manager with the result that the door staff team had been changed and an undertaking given that the terms of the licence would be complied with. Following the change in the door staff team, the incidents of drunkenness and associated disorder had decreased and the Police had no further concerns regarding assault by door supervisors. It was mentioned that had Yates's responded in this manner following the initial contact by the Police, a review would not have been sought.

In responding to the points made by Essex Police, Ms Eames stated that she did not seek to challenge the view of the Police and gave details of the steps that had been taken to address the areas of concern. Ms Eames mentioned that the Designated Premises Supervisor had been unwell over the past year and whilst this point was acknowledged by the Sub-Committee it was concerned that problems had been occurring since 2006 and therefore before the period of ill health. The Area Manager explained in some detail the actions he had taken and would continue to take to ensure the smooth running of the premises. In addition to changing the door staff team, the CCTV system had been upgraded so that there was a CCTV camera on the front door to provide a visual image of everyone entering the premises. This would provide a better quality image than could be obtained from a Head Cam. There was also renewed emphasis on staff training to ensure the smooth running of the premises.

The Decision

RESOLVED that after careful consideration of the representations made by Essex Police and those of the Premises Licence Holder and her representative and having regard to the contents of the report, the Sub-Committee was satisfied that the objectives of the Licensing Act 2003 had not been promoted. The Sub-Committee concurred with the evidence presented by Essex Police and determined that it was necessary and proportionate to impose the following conditions on the premises licence:-

- That no change be made to the existing door staff team or personnel of that team without prior consultation with Essex Police.
- CCTV to be maintained at levels agreed with the Police in 2009.
- The designated premises supervisor or a suitably qualified substitute to be readily available during opening hours.
- All new and existing staff members to receive training and refresher training on the company's operating policies in relation to Yates's, Colchester.
- Colchester Borough Council's Licensing Enforcement officers to have access to the CCTV system and the incident book on request.

Reason for the Determination

The Sub-Committee considered the evidence presented by Essex Police and in particular had regard to the –

- Statement of evidence supplied by the Divisional Police Licensing Officer, Mr Aitchison in advance of the meeting.
- Verbal evidence provided by Inspector Paul Butcher and the Divisional Police Licensing Officer, Mr Aitchison at the hearing.

The Sub-Committee also gave consideration to the evidence presented on behalf of Yates's by Ms Eames and had particular regard to the verbal assurances that the Sub-Committee was advised had been given to Essex Police prior to the hearing concerning–

- The change of door staff used at the premises.
- The improvements to the CCTV coverage.
- The change of Area Manager.
- The verbal assurance that the condition regarding the head camera be adhered to.

The Sub-Committee was not satisfied that the objective of the prevention of crime and disorder had been promoted by the management at Yates's.

It considered that-

- There had been a failure to ensure compliance with the condition on the premises licence that required one SIA Door Supervisor to wear a head camera when employed by Yates's.
- The management of Yates's had failed to proactively resolve the issues concerning

the use of force by door staff when ejecting customers from the premises and the quality of the CCTV when they had been brought to their attention by Essex Police and that these issues over two and a half years had only been dealt with following the application for review.

7. Close of Meeting

The meeting closed at 12.00.

LICENSING SUB-COMMITTEE HEARINGS

9 APRIL 2009

Present :- Councillor Christopher Garnett (Chairman)
Councillors Helen Chuah and Laura Sykes

1. Membership

The Committee Services Officer (Licensing) advised that there were no changes to the membership.

2. Appointment of Chairman

RESOLVED that Councillor Garnett be appointed Chairman.

3. Declarations of Interest

There were no declarations of interest.

4. Applications under the Licensing Act 2003

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.

5. Candi, 21 Osborne Street, Colchester

The Sub-Committee considered an application for a new premises licence in respect of Candi, 21 Osborne Street, Colchester to permit-

- Supply of alcohol on the premises
- Provision of films, live music, recorded music, performances of dance, anything of a similar description, facilities for dancing, facilities for entertainment of a similar description
- Provision of late night refreshment

In Attendance

Applicants: Mr Pace

Responsible Authorities: Ms Parkin, Environmental Control, Mr Huntley, Planning, Environmental and Protective Services and Mr Aitchison, Divisional Police Licensing Officer, Essex Police

Officers: Mr Essex, Solicitor and Mr Harvey, Licensing Manager, Mrs White, Committee

Services Officer and Miss Tuthill, Committee Services Assistant

Mrs White, Committee Services Officer (Licensing), briefly introduced the application advising that representations had been received from a local resident and the St John's Green Conservation Association. Essex Police and Colchester Borough Council's Planning and Environmental Control teams had also submitted representations.

Mr Pace presented his application and informed the Sub-Committee that he had been in the trade for several years and was hoping to open a café bar in Colchester.

Ms Parkin presented the case on behalf of Environmental Control and recommended that the application be refused on the grounds that the building was unsuitable for the licensing activities applied for, was in close proximity of residential properties and was not sound-proof. Ms Parkin informed the Sub-Committee that the hours and activities applied for would create noise and disturbance to residents and that the building could not be made sound proof without extensive rebuilding work. Colchester Borough Council's Planning team had objected to the application on the grounds of public nuisance and was concerned about the impact that the application would have on the neighbouring amenity.

Mr Aitchison, on behalf of Essex Police, informed the Sub-Committee that he and colleagues had met with the applicant to discuss the application and Mr Pace had verbally agreed to reduce the hours sought on the application to 02.00 and had also agreed to the addition of conditions sought by the Police on the grant of the licence. The Licensing Authority had received written confirmation of the amendment in hours but had not received written confirmation that the conditions had been agreed. Following questions from the Police and the Chairman Mr Pace confirmed that he was happy to agree to the conditions sought by the Police.

Mr Oliver, a local resident expressed his concerns about the application and commented that he was already often disturbed late at night by premises that were the same distance away as Candi and that he did not want any increase in the levels of disruption he already experienced. Mrs Downie spoke on behalf of the St John's Green Conservation Association and highlighted its concerns concerning noise disturbance for residents in the area. In responding to these concerns Mr Pace stated that he did not believe that noise would be an issue. There were no doors or exits on the side of the premises which faced St John's Green and the rooms on this side would not be used for music activities. It was his view therefore that noise would not escape. The applicant also said that he had had cavity wall insulation fitted which would help to sound-proof the building.

When questioned, Mr Pace told the Sub-Committee that he hoped to have a smoking area to the front of the premises where people can take their drinks. The Licensing Manager urged Mr Pace to reconsider on the grounds of prevention of crime and disorder because bottles and glasses outside of the venue late at night could be potential weapons and therefore Mr Pace's proposal did not promote the licensing objective of the Prevention of Crime and Disorder and worse could have a negative impact on that objective and was also contrary to the guidance given in the Council's Statement of Licensing Policy. Essex Police and Environmental Control also strongly

objected to the proposal on the grounds of safety and public nuisance. Mr Aitchison asked the Sub-Committee to consider, if it were minded to grant the application, the imposition of a condition to restrict taking bottles and glasses outside. Mr Pace concluded by saying that the premises had been a bar in the past and could see no problems with the application but would be happy to abide by any conditions imposed by the Licensing Sub-Committee.

The Decision

RESOLVED that –

The Sub-Committee carefully considered the application and having regard to the relevant parts of Section 182 Guidance, the Council's Licensing Policy, the contents of the report, conditions agreed with Child Protection and the representations received and submissions made at the hearing, the Sub-Committee determined to grant the premises licence to permit–

- The provision of films, live and recorded music, performances of dance, anything of a similar description, provision of facilities for dancing and for entertainment of a similar description indoors for the following hours:-

10.00 to 00.00 Mondays to Saturdays inclusive
10.00 to 23.30 Sundays inclusive

- Supply of alcohol on the premises for the following hours:-

10.00 to 00.00 Mondays to Saturdays inclusive
10.00 to 23.30 Sundays

Non Standard Timings: An additional hour on Thursdays, Fridays, Saturdays, Sundays and Mondays of all bank holiday weekends.

- The provision of late night refreshment indoors and outdoors for the following hours:-

23.00 to 00.00 Mondays to Saturdays inclusive
23.00 to 23.30 Sundays

- The premises to be open for the following hours:-

10.00 to 00.30 Mondays to Saturdays inclusive
10.00 to 00.00 Sundays

Reason for the Determination

The Sub-Committee gave full consideration to the representation from Environmental Control that the building was unsuitable for the activities applied for after the permitted hours due to its structure and layout. It was not satisfied that measures had been or could be taken to address these concerns. The Sub-Committee had regard to the concerns expressed by the residents in relation to noise nuisance and the close

proximity of the premises to residential properties of the objectors.

The Sub-Committee also noted the existence of the review procedure under the Licensing Act 2003.

Conditions imposed by the Sub-Committee at the Hearing –

- No live or amplified music to be played in the open air (including temporary structures such as marquees and tents).
- No music or speech shall be relayed via external speakers
- A designated premises supervisor will assess the impact of any noisy activities on any noise sensitive premises at the start of the activity/entertainment and periodically throughout the activity/entertainment to ensure levels of noise have not increased. A record shall be kept and any noisy incidents logged.
- A defined designated smoking area to be established within the curtilage of the premises.

Conditions agreed with Responsible Authorities –
Conditions agreed with Child Protection (13/03/2009):

- Children under the age of 16 years will be accompanied by an adult after the time of 21:00 hours.

Conditions agreed with Essex Police at the Hearing

- CCTV High Digital Quality to be retained and maintained in good order for 31 day period and handed to Police Officers investigating incidents upon request.
- Substantial food and non intoxicating beverages (including drinking water) will be available at all times the Premises are open in accordance with the Council's Statement of Licensing Policy in respect of Café/Bars/Wine Bars.
- No bottles or glasses to be taken off the premises.
- Toughened glasses only to be used.
- Challenge 21 Proof of age Scheme operated at all times.

Conditions offered by the Applicant on the Operating Schedule –

- Fully trained bar staff
- Fully trained security
- Professionally installed CCTV throughout
- A one in ten drug search policy
- There are two minicab offices within 50 metres of venue

- Will follow all recommended inspection/service intervals for all electrical and gas systems on the premises.
- Smoke detectors and fire services
- Toilets available for public use
- Ample parking in close proximity
- We will be taking part in the Challenge 21 scheme
- Soft drinks available

Mandatory Conditions -

Mandatory conditions where licence authorises supply of alcohol

1) Where a premises authorises the supply of alcohol, the licence must include the following conditions.

2) The first condition is that no sale of alcohol may be made under the premises licence-

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

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

3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Mandatory condition: exhibition of films

1) Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

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

3) Where-

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

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

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

4) In this section-

“children” means persons aged under 18; and
“film classification body” means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

Mandatory condition: door supervision

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

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

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

b) in respect of premises in relation to-

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

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

3) For the purposes of this section-

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

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

6. Close of Meeting

The meeting closed at 12.25.



Licensing Committee – 29 May 2009	Agenda Item 5
The Cherry Tree	FOR GENERAL RELEASE

Premises	The Cherry Tree Mersea Road Blackheath Colchester	Ward: Berechurch Stress Area: No Flare Ref: 018918 Author: Simon Harvey
Application	Application to vary a premises licence Proposed variation:- <ul style="list-style-type: none"> - Live music - Recorded music - Performances of dance - Provision of facilities for dancing - Provision of facilities for making music (Karaoke) - To extend hours for the supply of alcohol 	Appendix 1
Street Plan		Appendix 2
Responsible Authorities		
Environmental Control	Objection received	Appendix 3
Interested Parties		
Local Residents	Letters of Objection	Appendix 4

Existing Premises Licence

The existing licence provides for:-

Supply of alcohol on and off the premises:

- Mondays to Saturdays – 10.00 to 23.00
- Sundays – 12.00 to 22.30

Non-standard timings – From 10.00 New Year's Eve until 23.00 New Year's Day.

Hours the premises are open to the public:

- Mondays to Saturdays – 10.00 to 23.20
- Sundays – 12.00 to 22.50

Variation of the Licence

Supply of alcohol on and off the premises:

- Fridays to Saturdays – 10.00 to 00.00
- Sundays – 12.00 to 00.00

Provision of facilities for making music indoors:

- Wednesdays – 12.00 to 23.00
- Fridays to Sundays – 12.00 to 00.00

Provision of live music, recorded music, performances of dance, provision of facilities for dancing indoors:

- Fridays to Sundays 12.00 to 00.00

Hours the premises are open to the public:

- Fridays to Sundays – 10.00 to 00.30

Policy Guidelines – The Cherry Tree, Mersea Road, Blackheath, Colchester

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 take aways”.

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”.

The Prevention of Crime and Disorder

The Council’s adopted statement of Licensing Policy states under paragraph 5.18 that “the Council is committed to further improving the quality of life for the people living in the borough of Colchester by continuing to reduce crime and the fear of crime”.

Policy

Paragraph 5.20 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) whether the premises has or will have a negative impact on levels of crime and disorder and anti-social behaviour, and whether the operating schedule reasonably and proportionately takes into account the likelihood of crime and disorder occurring as a result of the grant of the application. In deciding this, regard will be given by the Licensing Authority on the levels of crime and disorder in and around schedule; the level of compliance with conditions on existing licences; and the extent to which Essex Police's effective management checklist (see Appendix 18) has been taken into account. This provides a comprehensive list of best practice.
- ii) whether the layout, lighting and fittings of the premises have been designed to minimise conflict and opportunities for crime and disorder and anti-social behaviour
- iii) whether the operating schedule includes management measures to prevent crime and disorder.
- iv) Whether the operating schedules for pubs and bars or for the provision of facilities for music and dancing have had regard to the number of people who may be admitted to the premises and the possibility of overcrowding increasing the likelihood of crime and disorder; the area set aside for drinking while standing at any time when any licensable activity is taking place and the measures set out in Appendix 18 of the Policy to help prevent crime and disorder and offences under the Licensing act 2003. Other premises may have to have regard to these matters in exceptional circumstances.

There have been no relevant representations received from any of the relevant responsible authorities or any other interested party in regard to this licensing objective.

Public Safety

Paragraph 5.23 of the Council's adopted statement of Licensing Policy states that "the Licensing Authority is committed to ensuring as far as is reasonable or possible, that the safety of anyone visiting or working in licensed premises, passers by and those living in the immediate vicinity, is not compromised".

Policy

Paragraph 5.24 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) whether appropriate and satisfactory general and technical risk assessments, management procedures and certificates have been made available to the relevant responsible authority and to the Licensing Authority where it may be necessary to do so that demonstrate that the public will be safe within, and in the immediate vicinity of, the premises;
- (ii) whether the premises already has a premises licence or club premises certificate that specifies the maximum number of people who can attend

it or be present and, if not, whether a risk assessment has been undertaken by the responsible person in accordance with the Regulatory Reform (Fire Safety) Order 2005 which advises the maximum number of persons who may be present in various parts of the premises so that they can be evacuated from the premises safely in the event of an emergency;

- (iii) whether there are procedures proposed to record and limit the number of persons on the premises with opportunities for 'pass outs' and re-admissions;
- (iv) whether patrons can arrive at, and depart from, the premises safely;
- (v) whether there may be local overcrowding in parts of the premises;
- (vi) whether music and dance venues and performance venues will use equipment or special effects which may affect public safety (for example, moving equipment, vehicles, pyrotechnics, strobe lights, smoke machines);
- (vii) whether due account has been given to the measures outlined in 'Safer Clubbing', in applications for facilities for music and dance. The key areas identified are:
 - prevention of overcrowding
 - air conditioning and ventilation
 - availability of drinking water
 - further measures to combat overheating
 - overall safety;
- (viii) whether there are defined procedures and responsibilities for medical and other emergencies and for calling the emergency services.

There have been no relevant representations received from any of the relevant responsible authorities or any other interested party in regard to this licensing objective.

The Prevention of Public Nuisance

Paragraph 5.27 of the Council's adopted 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".

Paragraph 5.28 of the Council's adopted 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 5.29 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 of 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.**

Representations have been received in regard to this Licensing Objective from the Council's Environmental Control Team and also local residents.

Residents have objected on the grounds of the noise disturbance emanating from the premises and have cited the problems they have already been experiencing from events that have taken place at the premises in recent months. They particularly refer to the noise from loud music and patrons from the pub which is audible from their properties and variously to the impact this has had and will have on their ability to leave doors and windows open and to use their gardens. Live music and Karaoke events have been variously covered up to this point in time by the pub's use of Temporary Event Notices (TEN's) or they have been entirely unauthorised.

The Environmental Control Team has objected to the grant of the licence in its entirety on the grounds of Public Nuisance. It cites the numerous and ongoing complaints that it has received for which diary sheets have been submitted by local residents. In addition nuisance was witnessed by an Environmental Control Officer on 15 March 2009. The most recent complaints were received from the weekend of the 1st and 2nd of May.

Environmental Control have also stated in their representation that in the event of the Sub-Committee being minded to grant the application, it is recommended that the following conditions are appended to the grant of the licence in order to achieve the Licensing Objective of the Prevention of Public Nuisance:-

If the application is granted then the following conditions should be applied:

- All external doors/windows must be kept closed, other than for access and egress, in all rooms when events involving amplified sound are taking place.

Note to applicant - mechanical ventilation or air conditioning may be required in warm weather.

- A noise limiting device shall be installed, fitted and maintained in such a manner as to control all sources of amplified music at the premises. The noise limiting device shall be connected to all permanent music and public address equipment and all available mains power sockets within the area of the stage/music equipment. Once set such a device should be inaccessible to the licensee or staff.

Note to the Applicant:

The use of noise limiters does not necessarily solve or prevent noise nuisance. To be wholly effective they must be used in conjunction with other measures and structural attenuation, and need regular calibration / checking by the owner or operator. Maintenance records must be kept for 12 months.

- Amplified sound from the licensed premises shall not be audible at the boundary of any noise sensitive premises.
- The licence-holder or his representative shall conduct regular assessments of the noise coming from the premises on every occasion the premises are used for regulated entertainment and shall take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A written record shall be made of these checks in a log book kept for that purpose and shall include, the time and date of the checks, the person making them and the results including any remedial action.
- Clear and prominent notices shall be displayed within the car park requesting the public respect the needs of local residents and to leave the premises and area quietly.
- Half an hour before the premises is due to close, music shall be played at a significantly lower volume and tempo.
- A member of staff to supervise the smoking area.

The Protection of Children from Harm

Paragraph **5.36** of the Council's adopted statement of Licensing Policy states that 'the protection of children from harm is a most important issue. It is hoped that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications'.

Paragraph **5.37** of the Council's Licensing Policy states that "the general relaxation allowed by the Licensing Act gives accompanied children greater access to licensed premises and is a positive step, aimed at bringing about a social change in family-friendly leisure. Clearly this relaxation can place additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have their own responsibilities in this regard".

Policy

Paragraph **5.38** of the Policy states that:

The Licensing Authority will rarely impose a complete ban on access to licensed premises for children. In exceptional circumstances and only where it is reasonable proportionate or necessary to do so to promote this licensing objective, conditions restricting access or excluding children completely may be considered necessary.

Paragraph 5.39 of the Policy states that:

“ the Licensing Authority will not impose conditions requiring that children be entitled to access to premises. This is a matter for the sole discretion of the individual premises or club or person who is applying for a Temporary Event Notice”.

There have been no relevant representations received from any of the relevant responsible authorities or any other interested party in regard to this licensing objective.

Areas outside of the Stress Area Policy

3.100 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.

3.101 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.**

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.

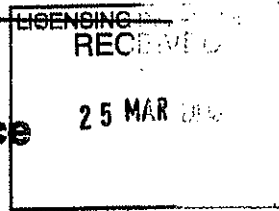
In making their decision as to whether to grant this application, Members of the Licensing Sub-Committee should in particular consider Article 1 of the First Protocol of the Human Rights Act 1998, that individuals are entitled to the peaceful enjoyment of their property and also Article 8 that everyone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



Application to vary a premises licence under the Licensing Act 2003

(1)

Reference number:

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

(2) I/We Sally Ann Crosby

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number 704523. 4790

Part 1 - Premises details

Postal address of premises or, if none, Ordnance Survey map reference or description <u>THE CHERRY TREE MERSEA ROAD BLACKHEATH</u>	
Post town <u>COLCHESTER ESSEX</u>	Postcode <u>CO2 0BY</u>

Telephone number at premises (if any)

Non-domestic rateable value of premises £61000 per year

Part 2 - Applicant details

Daytime contact telephone number

E-mail address (optional)

Current postal address if different from premises address <u>AS ABOVE</u>
--

Post town	Postcode
-----------	----------

(1) Insert name and address of relevant licensing authority and its reference number (optional)
(2) Insert name(s) of applicant

Part 3 - Variation

Please tick yes

Do you want the proposed variation to have effect as soon as possible?



If not do you want the variation to take effect from

Day	Month	Year

Please describe briefly the nature of the proposed variation (Please read guidance note 1)

LICENCE FOR
LIVE MUSIC
FOR 100 people
APPROX
KARAOKE
DISCO

~~MON 12 - 12 Jan~~
~~TUES 12 - 12 Jan~~
~~WED 12 - 12 Jan~~
~~THURS 12 - 12 Jan~~

FRIDAY 12.00 - 12.00 PM
SAT 12.00 - 12.00 PM
SUN 12.00 - 12.00

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

X

Part 4 - Operating Schedule

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

Provision of regulated entertainment

Please tick ✓ yes

- 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 entertainment facilities for:

- i) making music (if ticking yes, fill in box I)
- j) dancing (if ticking yes, fill in box J)
- k) entertainment of a similar description to that falling within (i) or (j) (if ticking yes, fill in box K)

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

Sale by retail of alcohol (if ticking yes, fill in box M)

In all cases complete boxes N, O and P

A

Plays Standard days and timings (please read guidance note 6)			Will the performance of a play take place indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2) Indoors <input type="checkbox"/> Outdoors <input type="checkbox"/> Both <input type="checkbox"/>
Day	Start	Finish	
Mon			Please give further details here (please read guidance note 3)
Tue			
Wed			State any seasonal variations for performing plays (please read guidance note 4)
Thur			
Fri			Non-standard timings. Where you intend to use the premises for the performance of plays at different times from those listed in the column on the left, please list (please read guidance note 5)
Sat			
Sun			

B

Films Standard days and timings (please read guidance note 6)			Will the exhibition of films take place indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2) Indoors <input type="checkbox"/> Outdoors <input type="checkbox"/> Both <input type="checkbox"/>
Day	Start	Finish	
Mon			Please give further details here (please read guidance note 3)
Tue			
Wed			State any seasonal variations for the exhibition of films (please read guidance note 4)
Thur			
Fri			Non-standard timings. Where you intend to use the premises for the exhibition of films at different times from those listed in the column on the left, please list (please read guidance note 5)
Sat			
Sun			

Indoor sporting events			Please give further details here (please read guidance note 3)
Standard days and timings (please read guidance note 6)			
Day	Start	Finish	
Mon			
Tue			
Wed			
Thur			
Fri			
Sat			
Sun			

State any seasonal variations for indoor sporting events (please read guidance note 4)

Non-standard timings. Where you intend to use the premises for indoor sporting events at different times from those listed in the column on the left, please list (please read guidance note 5)

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

State any seasonal variations for boxing or wrestling entertainment (please read guidance note 4)

Non-standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times from those listed in the column on the left, please list (please read guidance note 5)

E

Live music			Will the performance of live music take place indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2) Indoors <input checked="" type="checkbox"/> Outdoors <input type="checkbox"/> Both <input type="checkbox"/>
Standard days and timings (please read guidance note 6)			
Day	Start	Finish	Please give further details here (please read guidance note 3) LIVE MUSIC FOR WEDDINGS AND BIRTHDAYS
Mon			
Tue			
Wed			State any seasonal variations for the performance of live music (please read guidance note 4)
Thur			
Fri	12.00	12.00	Non-standard timings. Where you intend to use the premises for the performance of live music at different times from those listed in the column on the left, please list (please read guidance note 5)
Sat	12.00	12.00	
Sun	12.00	12.00	

F

Recorded music			Will the playing of recorded music take place indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2) Indoors <input checked="" type="checkbox"/> Outdoors <input type="checkbox"/> Both <input type="checkbox"/>
Standard days and timings (please read guidance note 6)			
Day	Start	Finish	Please give further details here (please read guidance note 3) DISCO, FOR WEDDINGS & FUNERALS & SPECIAL OCCASIONS NOT ON A WEEKLY BASIS
Mon			
Tue			
Wed			State any seasonal variations for the playing of recorded music (please read guidance note 4)
Thur			
Fri	12.00	12.00	Non-standard timings. Where you intend to use the premises for the playing of recorded music at different times from those listed in the column on the left, please list (please read guidance note 5)
Sat	12.00	12.00	
Sun	12.00	12.00	

G

Performances of dance

Standard days and timings
(please read guidance note 6)

Will the performance of dance take place indoors or outdoors or both
- please tick (please read guidance note 2)

Indoors Outdoors Both

Day	Start	Finish
Mon		
Tue		
Wed		
Thur		
Fri	12.00	12.00
Sat	12.00	12.00
Sun	12.00	12.00

Please give further details here (please read guidance note 3)

State any seasonal variations for the performance of dance
(please read guidance note 4)

Non-standard timings. Where you intend to use the premises for the performance of dance at different times from those listed in the column on the left, please list (please read guidance note 5)

H

Anything of a similar description to that falling within (e), (f) or (g)

Standard days and timings
(please read guidance note 6)

Please give a description of the type of entertainment you will be providing

Day	Start	Finish
Mon		
Tue		
Wed		
Thur		
Fri		
Sat		
Sun		

Will this entertainment take place indoors or outdoors or both
- please tick (please read guidance note 2)

Indoors Outdoors Both

Please give further details here (please read guidance note 3)

State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 4)

Non-standard timings. Where you intend to use the premises for entertainment of a similar description to that falling within (e), (f) or (g) at different times from those listed in the column on the left, please list (please read guidance note 5)

Provision of facilities for making music			Please give a description of the facilities for making music you will be providing
Standard days and timings (please read guidance note 8)			Will the facilities for making music be indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2) Indoors <input checked="" type="checkbox"/> Outdoors <input type="checkbox"/> Both <input type="checkbox"/>
Day	Start	Finish	
Mon			Please give further details here (please read guidance note 3) <i>KARAOKE. MAYBE WEEKLY COMPETITION. IN EVENING WITH LOCAL RADIO.</i>
Tue		11.00	
Wed	12.00	11.00	State any seasonal variations for the provision of facilities for making music (please read guidance note 4)
Thur			
Fri	12.00	12.00	Non-standard timings. Where you intend to use the premises for provision of facilities for making music entertainment at different times from those listed in the column on the left, please list (please read guidance note 5)
Sat	12.00	12.00	
Sun	12.00	12.00	

Provision of facilities for dancing			Please give a description of the facilities for dancing you will be providing
Standard days and timings (please read guidance note 6)			Will the facilities for dancing be indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2) Indoors <input checked="" type="checkbox"/> Outdoors <input type="checkbox"/> Both <input type="checkbox"/>
Day	Start	Finish	
Mon			Please give further details here (please read guidance note 3)
Tue			
Wed			State any seasonal variations for providing dancing facilities (please read guidance note 4)
Thur			
Fri	12.00	12.00	Non-standard timings. Where you intend to use the premises for the provision of facilities for dancing at different times from those listed in the column on the left, please list (please read guidance note 5)
Sat	12.00	12.00	
Sun			
	12.00	12.00	

K

Provision of facilities for entertainment of a similar description to that falling within I or J			Please give a description of the type of entertainment facility you will be providing
Standard days and timings (please read guidance note 6)			Will the entertainment facility be indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2)
Day	Start	Finish	Indoors <input type="checkbox"/> Outdoors <input type="checkbox"/> Both <input type="checkbox"/>
Mon			Please give further details here (please read guidance note 3)
Tue			
			State any seasonal variations for the provision of the facilities for entertainment of a similar description to that falling within I or J (please read guidance note 4)
Wed			
Thur			Non-standard timings. Where you intend to use the premises for the provision of facilities for entertainment of a similar description to that falling within I or J at different times from those listed in the column on the left, please list (please read guidance note 5)
Fri			
Sat			
Sun			

L

Late night refreshment			Will the provision of late night refreshment take place indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2) Indoors <input type="checkbox"/> Outdoors <input type="checkbox"/> Both <input type="checkbox"/>
Standard days and timings (please read guidance note 6)			
Day	Start	Finish	Please give further details here (please read guidance note 3)
Mon			
			State any seasonal variations for the provision of late night refreshment (please read guidance note 4)
Tue			
			Non-standard timings. Where you intend to use the premises for the provision of late night refreshment at different times from those listed in the column on the left, please list (please read guidance note 5)
Wed			
Thur			
Fri			
Sat			
Sun			

M

Supply of alcohol			Will the sale of alcohol be for consumption - please tick box <input checked="" type="checkbox"/> (please read guidance note 7) On the premises <input type="checkbox"/> Off the premises <input type="checkbox"/> Both <input checked="" type="checkbox"/>
Standard days and timings (please read guidance note 6)			
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4)
Mon			
			Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times from those listed in the column on the left, please list (please read guidance note 5)
Tue			
Wed			
Thur			
Fri	10.00	12.00	
Sat	10.00	12.00	
Sun	12.00	12.00	

N

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)

O

Hours premises are open to the public

Standard days and timings
(please read guidance note 6)

Day	Start	Finish
Mon	10.00	23.20
Tue	10.00	23.20
Wed	10.00	23.20
Thur	10.00	23.20
Fri	10.00	12.30 PM
Sat	10.00	12.30 PM
Sun	10.00	12.30 PM

State any seasonal variation (please read guidance note 4)

Non-standard timings. Where you intend to use the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 5)

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

Please tick yes

I have enclosed the premises licence

I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes please fill in reasons for not including the licence, or part of it, below

Reasons why I have failed to enclose the premises licence or relevant part of the premises licence

I HAVE FORGOT TO BRING MY
PREMISES LICENCE
I SHALL SEND A COPY.

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

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

WE AIM TO SOUND PROOF ALL DOORS & WINDOWS
STOPPING PEOPLE SMOKING OUTSIDE
PLENTHY OF BAR STAFF TO SUPERVISE

b) The prevention of crime and disorder

ONLY SERVE PEOPLE OVER AGE 18 CHECK
I.D. ON A REGULAR BASIC
REFUSE TO SERVE ANY BODY OVER
INTOXICATED

c) Public safety

DOOR STAFF AS REQUIRED
THE LICENCE IS REQUIRED FOR THE
FACILITY OF KARAOKE & DISCO NOT ON A
REGULAR BASIS, BUT WHEN PEOPLE BOOK
MAINLY A PRIVATE FUNCTION, IE, WEDDINGS
A LIVE BAND MAY APPEAR ON OCCASION
~~BUT NOT ON A REGULAR BASIS~~

d) The prevention of public nuisance

END OF EVENING ASK PEOPLE TO LEAVE QUIETLY
OR RESPECT NEIGHBOURS.
NOTICES IN PUB TO ASK PEOPLE TO LEAVE QUIETLY

e) The protection of children from harm

ONLY 18 ABOVE. NO CHILDREN
ALLOWED IN PUB IN THE EVENINGS
AFTER 8.00 PM

- I have made or enclosed payment of the fee
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I understand that I must now advertise my application
- I have enclosed the premises licence or relevant part of it or explanation
- I understand that if I do not comply with the above requirements my application will be rejected

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

Part 5 - Signatures (please read guidance note 10)

Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent. (please read guidance note 11)

If signing on behalf of the applicant please state in what capacity.

Signature

Date 16/3/09

Capacity

Where the premises licence is jointly held signature of 2nd applicant (the current premises licence holder) or 2nd applicant's solicitor or other authorised agent. (please read guidance note 12)

If signing on behalf of the applicant please state in what capacity.

Signature

Date

Capacity

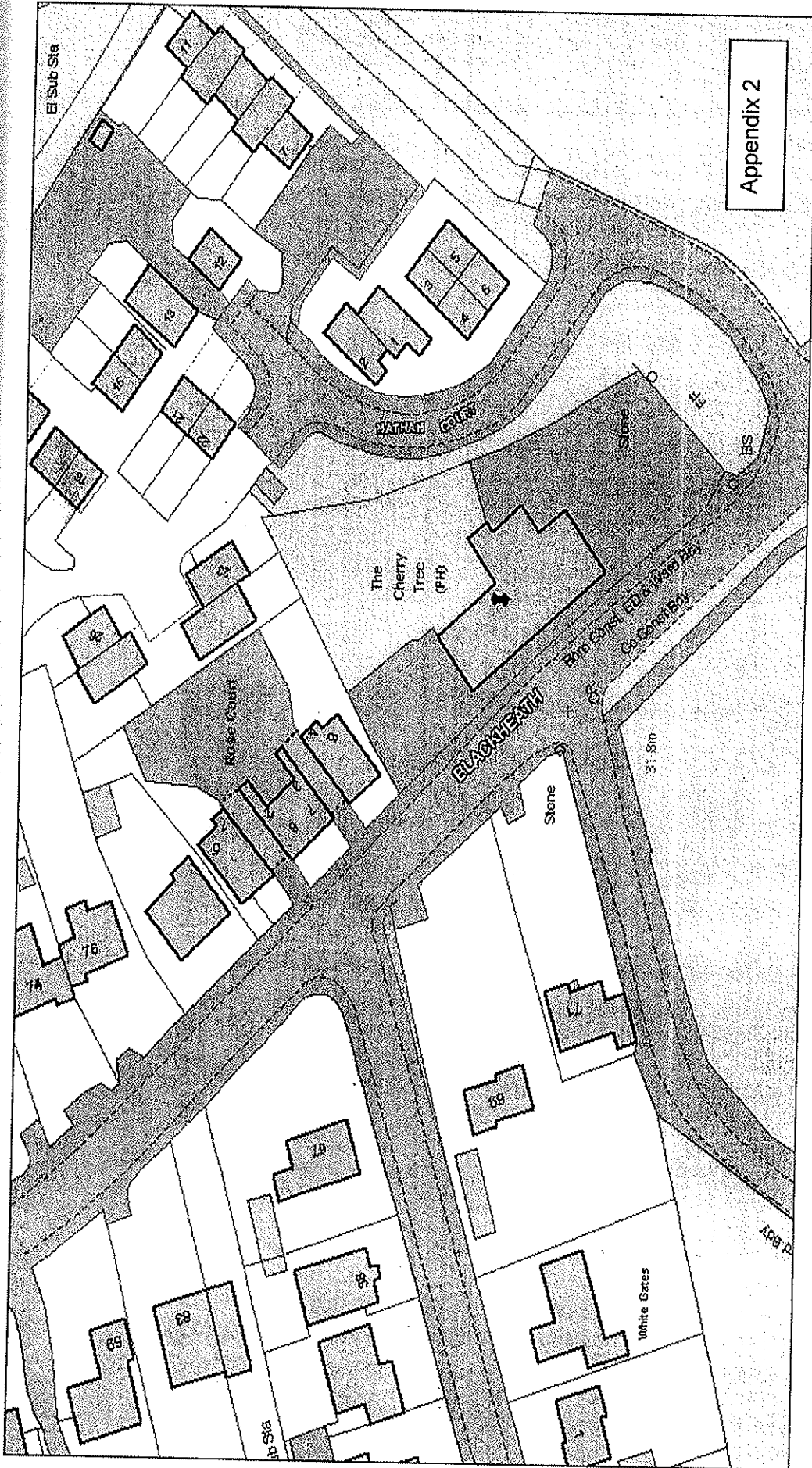
Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 13)

Post town

Postcode

Telephone number (if any)

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



Licence Application Reference: 018918
 Premises Name & Address: Cherry Tree Inn Blackheath Colchester
 Date Produced: 27 April 2009

MAP NOT TO SCALE

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Consultation Response

Environmental Control Officer: Leigh Newman

Licensing Reference No: 018918

Ward: Berechurch

Location: Cherry Tree Inn Blackheath, Colchester, CO2 0AD

Details: Application to Vary Premises Licence

Scheduled Response Date:

Environmental Control's Comments: -

The following comments are made in respect of the "Prevention of Public Nuisance" licensing objective

Environmental Control wish to object to this whole application.

We began to receive complaints on the 17th February 2009. An initial letter was sent to the public house on this date and diary sheets were sent to the complainants.

We did not receive acknowledgment from the public house and the complaints continued. We received diary sheets back detailing nuisances on 18th, 19th, 21st February, 6th, 7th, 8th, 10th, 12th, 13th, 14th, 15th and 16th March, including loud live music, recorded music, karaoke and noise from the smoking area.

Some of these episodes occurred up to 02.00.

A nuisance was witnessed by an Environmental Control Officer on 15th March 2009.

The most recent complaints were received from the weekend 1st/2nd May 2009.

If the application is granted then the following conditions should be applied:

- All external doors/windows must be kept closed, other than for access and egress, in all rooms when events involving amplified sound are taking place.

Note to applicant - mechanical ventilation or air conditioning may be required in warm weather.

- A noise limiting device shall be installed, fitted and maintained in such a manner as to control all sources of amplified music at the premises. The noise limiting device shall be connected to all permanent music and public address equipment and all available mains power sockets within the area of the stage/music equipment. Once set such a device should be inaccessible to the licensee or staff.

Note to the Applicant:

The use of noise limiters does not necessarily solve or prevent noise nuisance. To be wholly effective they must be used in conjunction with other measures and structural attenuation, and need regular calibration / checking by the owner or operator. Maintenance records must be kept for 12 months.

- Amplified sound from the licensed premises shall not be audible at the boundary of any noise sensitive premises.
- The licence-holder or his representative shall conduct regular assessments of the noise coming from the premises on every occasion the premises are used for regulated entertainment and shall take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A written record shall be made of these checks in a log book kept for that purpose and shall include, the time and date of the checks, the person making them and the results including any remedial action.
- Clear and prominent notices shall be displayed within the car park requesting the public respect the needs of local residents and to leave the premises and area quietly.
- Half an hour before the premises is due to close, music shall be played at a significantly lower volume and tempo.
- A member of staff to supervise the smoking area.

Signed: Leigh Newman
Environmental Control Officer

Date: 06/05/2009

APPENDIX 4

LICEN
RECEIVED

17 APR 2009

16th April 2009

Dear Sirs,
Re Cherry Tree pub

I believe the pub have applied to extend there music licence, this is not acceptable as we have trouble with the pub and noise, not only the music but after hrs the punters come past our property shouting and screaming, we have had to put up with this for many years. We have had to phone the police and complain to the council noise office on many occasions. They also sell cars from the pub car park which I believe is against the law as it is for commercial gain and not private sale, plus the people coming to view cars block up our entrance to our estate which is dangerous. When we bought our house the pub was closed, if we had known it was going to be reopened we would not bought the property. This pub should not receive a music licence in built up area, as it causes Constance nuisance to all in the area.

Yours truly,

1 APR 2009

Licensing Team
Planning Protection and Licensing
P O Box 889
Town Hall
Colchester
Essex CO1 1FL

20th April 2009

Dear Sirs,

**APPLICATION FROM THE CHERRY TREE PUBLIC HOUSE FOR
ADDITIONAL LICENCE**

It was with considerable alarm that I have seen a notice in the back of the Evening Gazette on Wednesday 15th April stating that the Cherry Tree Public House has applied for a variation of a premises licence to allow them to have live music, recorded music, performance of dance, provisions of facilities' for making music and for dancing and the sale of alcohol for Wednesdays, Fridays, Saturdays and Sundays from 12 Midday until 12 Midnight on all of these days.

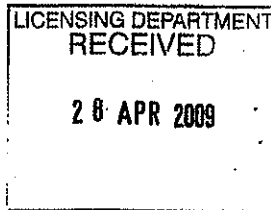
I must strongly object to this licence being granted, as whenever music is played or a function takes place at the Cherry Tree the noise is absolutely unbearable, even with doors and windows firmly closed it still penetrates indoors. Apart from the noise from the 'music' the people who use the Public House make a lot of noise when they finally leave the premises at night. We will also be unable to use our gardens during the daytime as again when functions which allow the Pub to have music during the day take place the noise outside plus the shouting of the patrons is extremely loud and unpleasant.

Another issue would be parking, the public house appears to have numerous vehicles that are already parked around it so public parking space is very limited, we do not like the public house patrons parking in our private car parks and also on the entry/exit road which makes access very difficult.

So therefore please do not grant any further opportunities for this Public House to make our lives uncomfortable, the amount of sessions they have now is more than enough to cope with.

One final point, the notice in the Evening Gazette could easily have been missed and the one in the Pub window can only be seen if you walk right up to the window and peer in to read it, a lot of people have been unaware that this application has gone in.

Yours faithfully



23 April 2009

To Whom It May Concern:

We are writing in response to the public notice regarding an application for a variation of a premise license for The Cherry Tree Public House, Mersea Road, Blackheath, Colchester, Essex CO2 0BU.

Having lived at [redacted] for nearly five years, we have experienced noise and disruption as a result of the normal licensing laws. The Bank Holiday weekend was noisy and unpleasant as a result of the constant live and heavy based music which could be heard from our house.

Living close to the pub would be unbearable if this was allowed on a weekly basis. So therefore we are writing to object to the proposed application, and hope that you will take our views into consideration. We will be unable to leave our doors open in the summer due to sound pollution which will impact greatly on the quality of our two young children.

Thank you for taking the time to read this letter, we look forward to your reply.

Yours Faithfully

LICENSING DEPARTMENT
RECEIVED
13 MAY 2009

Dear Sir/Madam

My attention has been drawn to Mr Silby Crookley's application for a variation of Premise Licence under the Licensing Act 2003 to allow live music, recorded music performance of dance, the provision of facilities for making music and for dancing and the sale of alcohol, Friday, Saturday, Sunday and Wednesday 12 Midday to 12 midnight in respect to the Cherry Tree Pub, Musca Road, Blackheath, Colchester, Essex CO2 0BA.

The parts of the request I object about, are the number of days that music-related events should take place. Wednesdays and Sundays I think are excessive and the length of time on the other days should be halved from 12 hours to 6 hours, and their frequency should be restricted.

I live very near to the aforementioned building. I do not know what current licensing arrangements are, but I do know that when music is played

There, it totally consumes the surrounding area.
Immediately I step out of my house it is there
in my face. To attempt to hold any social discourse
outdoors in my property is impossible on these
occasions.

Yours faithfully

e-mail: licensing.committee@colchester.gov.uk
website: www.colchester.gov.uk