

# Licensing Sub- Committee Hearings

**Grand Jury Room, Town Hall  
30 April 2010 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.

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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.

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[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.

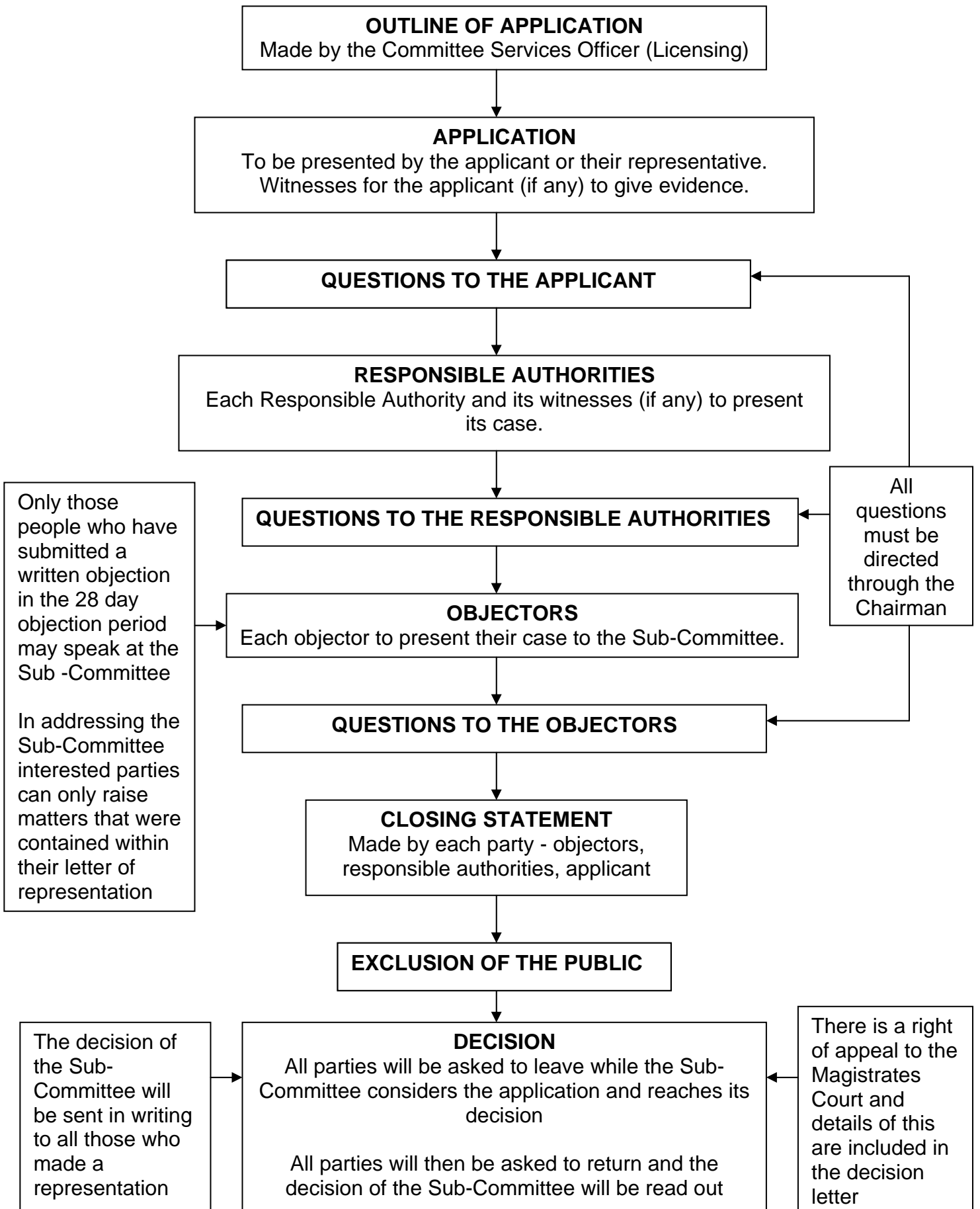
(21) The Chairman will ask the Legal Advisor whether there is anything else to be raised or settled before the proceedings are closed.

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  
30 April 2010 at 10:00am**

**Members**

Councillors Barrie Cook, Nick Cope and Christopher Garnett.

*(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 for 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 switched off or to silent;
- location of toilets;
- introduction of members of the meeting.

**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 - 4**

To confirm as a correct record the minutes of the meeting held on 15 January 2010.

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

**5 - 51**

Fashion Cafe  
2 St Botolph's Street,  
Colchester,  
Essex  
CO2 7DX





# COLCHESTER BOROUGH COUNCIL

## LICENSING SUB-COMMITTEE

15 January 2010

### MINUTES OF PROCEEDINGS

At a meeting of the Licensing Sub-Committee held on 15 January 2010 at 10.00 in the Grand Jury Room, Colchester Borough Council, Town Hall, High Street, Colchester

Present:- Councillor Bouckley  
Councillor Garnett

#### 1. Membership

*RESOLVED* that Councillor Garnett be appointed Chairman.

The Chairman sought and gained the consent of the applicant to proceeding with the hearing with only two members on the Sub-Committee.

#### 2. Declarations of Interest

There were no declarations of interest.

#### 3. Minutes

The minutes of the meeting held on 29 May 2009 were approved as a correct record.

#### 4. Licensing Applications

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.

##### a) Ocean Supermarket, 57 North Station Road, Colchester

The Sub-Committee considered an application for a new premises licence in respect of the Ocean Supermarket, 57 North Station Road, Colchester to permit the sale of alcohol.

#### In Attendance

Applicant: Mr Yamak

Officers: Mr Essex, Lawyer; Mr Weavers, Legal Services Manager; Mr Daines, Protective Services Manager; Mrs White, Committee Services Officer (Licensing); and Ms Tuthill Committee Services Assistant (Licensing)

Objector: Mr Sharma

Observer: Miss Sharma

## **The Application**

Mrs White, Committee Services Officer (Licensing), briefly introduced the application explaining that a relevant representation had been received in respect of the application from a local resident who also had a business in the vicinity of the premises.

Mr Yamak outlined his application to the Sub-Committee. He explained that it was his intention to bring something different to the town by providing a supermarket selling mediterranean food and he would like to be able to complete his range by selling alcohol. Mr Yamak felt that by not being able to sell alcohol, he was losing trade to nearby premises. He had applied for and obtained temporary event notices over the Christmas and New Year period and had sold a small quantity of alcohol comprising approximately 20% of his trade in this period. Mr Yamak commented that the store, which was already open, appeared to have been well received by local residents who were happy for something different to be provided on that site.

In response to questioning, Mr Yamak explained that he took his responsibilities very seriously and that he did not sell to underage individuals. He employed four people in the shop and he trained these individuals himself and was at the premises for much of the time as it was a new business. Mr Yamak gave the Sub-Committee information on the number and type of licensed premises in the locality and explained that many licences were linked to the sale of food. He did not consider the local market to be saturated with premises similar to his. In response to a question on the sale of cheap alcohol, Mr Yamak responded that it was not his intention to sell alcohol cheaply as the quality of his products was self evident and he did not need to use drinks promotions to encourage customers into the shop. His aim was to provide a complete range of products for his customers to enable them to make all their purchases at a single premises.

Mr Sharma attended and addressed the Sub-Committee. He clarified for the number of licensed premises in the area drawing specific attention to the Majestic wine store and the number of takeaways with a licence to sell alcohol off the premises. Mr Sharma explained that he had a business at 37 North Station Road and outlined his concerns in particular in relation to the licensing objectives of the prevention of crime and disorder and the protection of children from harm and his view of the likely impact that the grant of the licence could have on these objectives. Mr Sharma was concerned that the premises did not have an external CCTV camera which he believed would help deter young people from congregating outside the premises which was a problem outside other late opening premises on North Station Road. In addition Mr Sharma was concerned at the layout of the premises which he believed could lead to shoplifting and public safety issues. Mr Sharma then addressed the committee on the sale of age restricted products and his concerns in this regard. He mentioned that Mr Yamak did not have the necessary posters displayed relating to the sale of cigarettes and nor had he had posters relating to the sale of alcohol during the period covered by the temporary event notices. Mr Sharma asked that consideration be given to refusing the licence but in the event that it was granted, the Sub-Committee give consideration to the imposition of relevant conditions on the licence to mitigate any problems.

The Protective Services Manager clarified the position with regard to the responsibilities of the Designated Premises Supervisor in relation to the sale of alcohol, following comments made by Mr Sharma. He confirmed that as the DPS Mr Yamak would not have to be present at the premises all the time but that his absence did not absolve him of his responsibilities in this regard.

## **The Decision**

The Sub-Committee, having carefully considered the application and having regard to the relevant parts of the Section 182 Guidance, the Council's Licensing Policy, the contents of the report, the representations received and the submissions made at the hearing, resolved to vary the licence to permit the following-

- Supply of alcohol off the premises for the following hours-  
Monday to Sunday – 08.00 to 00.00
- The premises to be open for the following hours-  
Monday to Sunday – 08.00 to 00.00

## **Reasons for the Determination**

The Sub-Committee was mindful that its decision must be a necessary and proportionate response aimed at the promotion of the licensing objectives. The Sub-Committee considered that the most appropriate way forward was to grant the application subject to the operating schedule, to the relevant mandatory conditions in the Licensing Act 2003 and the conditions imposed to address the concerns raised by the objector.

The Sub-Committee noted that there were no representations from any of the responsible authorities and in particular Essex Police, the relevant responsibility in the case of the licensing objective of the prevention of crime and disorder, and Essex Child Protection, the relevant responsible authority in relation to the protection of children from harm.

## **Conditions imposed by the Sub-Committee at the Hearing**

The Sub-Committee considered that the imposition of the following conditions were necessary and proportionate in order to promote the licensing objectives of the prevention of public nuisance and the protection of children from harm-

1. Relevant notices and signs be displayed in relation to the sale of age restricted products.
2. A CCTV camera be installed outside of the premises and that the images be recorded and retained for a minimum of 31 days.
3. A refusal book be kept detailing any attempts by those without valid ID to purchase age restricted products.
4. All staff must be trained regularly on the requirements under the Licensing Act 2003.

## **Conditions offered by the Applicant on the Operating Schedule**

1. CCTV to be installed.

2. Risk assessment to be carried out.
3. Fire Fighting equipment to be checked annually.
4. Proof of age to be requested.
5. Challenge 21 to be adopted.
6. Implementation of no ID produced, no sale made.

### **Mandatory Conditions**

Mandatory conditions where licence authorises supply of alcohol

1. No sale of alcohol may be made under the premises licence when there is no designated premises supervisor in respect of the premises licence.
2. No sale/supply of alcohol shall be made when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Mandatory condition: door supervision

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.

## **5. Close of Meeting**

The meeting closed at 12.08.

**Chairman:**



<b>Licensing Committee – 30 April 2010</b>	<b>Agenda Item 5</b>
<b>Fashion Café</b>	<b>FOR GENERAL RELEASE</b>

<b>Premises</b>	Fashion Café 2 St. Botolph's Street, Colchester	Ward: Castle Stress Area: Yes Flare Ref: 070092 Author: Simon Harvey
<b>Application</b>	Application for a variation of a premises licence to permit:- <ul style="list-style-type: none"> <li>- Sale of alcohol for additional hours</li> <li>- Provision of films, indoor sporting events, live music, recorded music, facilities for making music and for dancing for additional hours</li> <li>- Premises to be open for additional hours</li> </ul>	Appendix 1
<b>Street Plan</b>		Appendix 2
<b>Premises Licence</b>		Appendix 3
<b>Responsible Authorities</b>		
Essex Police	Letter of representation	Appendix 4
<b>Interested Parties</b>		
Ward Councillor	Letter of representation	Appendix 5
Colchester Civic Society	Letter of representation	Appendix 5
Local Resident	Letter of representation	Appendix 5
<b>Plan of the Stress Area</b>		Appendix 6

### Existing Premises Licence

The existing premises licence permits –

**Supply of alcohol, film exhibitions, indoor sporting events, provision of live music, recorded music, facilities for making music and facilities for dancing:**

- Mondays to Sundays – 10.00 to 03.00

**Opening hours of the premises:**

- Mondays to Sundays – 10.00 to 03.30

### Variation of the Licence

**Supply of alcohol, film exhibitions, indoor sporting events, provision of live music, recorded music, facilities for making music and facilities for dancing:**

- Fridays and Saturdays – 10.00 to 04.00

**Opening hours of the premises:**

- Fridays and Saturdays – 10.00 to 04.30

### Policy Guidelines – Fashion Café, 2 St Botolph's Street, 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 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 Crime and Disorder**

The Council's 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 the venue, the proposals contained in the operating schedule; the level of compliance with conditions on existing licences; and the extent to which Essex Police's effective management checklist (see Appendix 18 of the Council's statement of Licensing Policy) has been taken into account. This provides a compressive 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.**

A representation has been received in regard to this licensing objective from Mr Michael Aitchison who is the Colchester Divisional Police Licensing Officer and who is writing on behalf of Essex Police.

Essex Police advise that the premises are located in an area identified in the Council's Statement of Licensing Policy as a stress area. The Police believe that if granted, the proposed later opening hours of the Fashion Café would be likely to exacerbate the existing high levels of alcohol related crime and disorder in the stress area and lead to an increase in problems associated with crime and public disorder, noise nuisance and anti social behaviour in St. Botolph's Street/Queen Street and which will inter-alia be contrary to the statutory obligation placed upon the Local Authority and Police under Section 17 of the Crime and Disorder Act 1998 to reduce crime and disorder in or around licensed premises. In their letter of representation, Essex Police also give examples of recent alcohol related crime and disorder incidents that have directly emanated from the Fashion Café.

Essex Police further believe that granting the extended opening hours applied for would undermine the promotion of the crime prevention objective and public nuisance licensing objectives in an area where there is already a high concentration of licensed premises, bars and clubs, and several late night takeaway establishments.

Castle Ward Councillor Henry Spyvee has also submitted a representation objecting to the application under the prevention of crime and disorder licensing objective. In his representation, Councillor Spyvee refers to drunken behaviour such as damage to property and fighting that he advises already occurs in the area and is also experienced regularly by the residents living in Priory Street in particular, but also by residents further away in East Hill and East Street as patrons of pubs and clubs make their way home. He further raises his concerns that if this application were granted, it would stretch the resources available to the Police further.

Colchester Civic Society has also submitted a letter of representation in regard to this licensing objective. In their objection, the Society expresses its surprise that this application has been submitted for a premises in the stress area and goes on to advise that it will add to the anti-social behaviour such as vandalism and damage to property which already occurs and exists in the Queen Street and St Botolph's Street area at night.

A letter of representation in regard to this licensing objective has been received from a resident in Priory Street who cites that Priory Street is blighted from Thursday evening until Sunday morning by the behaviour of people leaving the various late night and early morning establishments located in the Queen Street and St Botolph's Street area.

The representation goes on to detail the kind of crime and disorder problems they experience in Priory Street such as fighting and vandalism and damage committed against cars and property.

The resident expresses their belief that a further extension of hours in the stress area is inappropriate and asks that the rights of local residents are given precedence and that they are allowed a reasonable level of peace and quiet and uninterrupted nights sleep.



## **Public Safety**

Paragraph 5.23 of the Council's 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) Where 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.**
- (vii) 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.

### **Prevention of Public Nuisance**

Paragraph 5.27 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".

Paragraph 5.28 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 5.29 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 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.**

A representation has been received in regard to this licensing objective from Mr Aitchison the Colchester Divisional Police Licensing Officer, writing on behalf of Essex Police. Essex Police believe that, if granted, the proposed later opening hours at the Fashion Café are likely to exacerbate the existing high levels of alcohol related anti-social behaviour and public nuisance in the stress area and impact on the Priory Street residents' quality of life.

Mr Aitchison's letter of representation also cites the belief of Essex Police that increasing the opening hours of the Fashion Cafe will increase noise nuisance, disorder and anti-social behaviour in Queen Street and St Botolph's Street, which will then exacerbate the existing disorder hot spots in the stress area where customers are already leaving clubs and bars, many of whom will then head to the seven late night takeaways located in the stress area. The representation from Essex Police goes on to

add that any increase in crime and disorder or public nuisance in the stress area will have a significant effect on Police resources, taking officers away from other sections of the Division.

The representations objecting to this application which were received from Castle Ward Councillor Henry Spyvee and from the Colchester Civic Society also make reference to matters that are more associated with undermining the public nuisance objective such as problems with noise from shouting, public urination and littering from patrons leaving premises in the stress area and which they are concerned will continue for longer if the application is granted. It should be added that these representations do not specifically cite the Fashion Café as a cause of this public nuisance, but wish to draw the Committees attention to the fact that by allowing the premises to remain open until 4.30am, it will in their view exacerbate the likelihood of increasing public nuisance and anti-social behaviour within the Council's designated 'Stress Area'.

The representation submitted by a resident of Priory Street also gives examples of the kind of anti social behaviour, noise and public nuisance that the resident advises takes place from Thursday evening to Sunday morning in Priory Street such as screaming, shouting, vomiting, urinating, defecating, fornicating and litter which the representation attributes to the behaviour of patrons leaving the various late night and early morning establishments that are located in the stress area.

#### **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 5.33 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 5.34 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.**

### **Protection of Children from Harm**

Paragraph **5.36** of the Council’s 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 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 the 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 the 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.

### **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.

### **Stress Area Policy**

Paragraph **3.93** of the Policy states that:

**After full consultation, the Licensing Authority will continue to apply a special policy relating to cumulative impact to the Queen Street/St Botolph’s Street area of Colchester town centre. This area continues to be identified as being under stress because of the cumulative effect of the concentration of late night**

**food and alcohol and entertainment premises, which results in serious problems of disorder and/or public nuisance affecting residents, visitors and other businesses located in that area.**

Paragraph **3.94** of the Policy states that “although the stress area policy is being maintained, each and every application to grant or vary a premises licence in this area will be considered on its own individual merits and in its own right and in relation and relevance to any representations received that are pertinent to the application and also to the licensing objectives. Applicants should be aware however that all applications received within the stress area may receive closer scrutiny from the responsible authorities, particularly from Essex Police, in order to ensure that the application will not have a negative impact on the licensing objectives, especially where the objectives of the prevention of crime and disorder and the prevention of public nuisance are concerned”.

Paragraph **3.95** of the Policy states that:

**The Special Policy applies to applications for new licences and to variations which are relevant to the licensing objectives. This may include extensions of hours or capacities at the premises. Applicants are expected to state in their operating schedule how it is proposed to ensure that the application will not add to the cumulative impact currently being experienced in the stress area. Their operating schedule is likely to receive the close scrutiny of responsible authorities.**

Paragraph **3.96** of the Policy states that:

**Where no relevant representations are received, the application will be granted. Where, however, relevant representations are received the application will normally be refused unless the applicant demonstrates that the application will not add to that impact. The Licensing Authority may attach further or modified conditions to the licence where this is necessary to meet those concerns. This Policy is not an absolute bar on new applications. Where relevant representations are received, the individual merits of the application will always be considered and a decision made as to whether it is appropriate to make an exception to the Policy.**

Paragraph **3.98** of the statement of Licensing Policy states that “the Licensing Authority welcomes the provision of a diverse choice of alternative entertainment where this is suitable, in order to reduce or ameliorate the impact of clubs, pubs, bars and fast food takeaway outlets situated within the stress area”.

### **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.

PLANNING, PROTECTION AND LICENSING  
RECEIVED  
11 MAR 2010  
m 070092  
PASSED TO ACTION/NOTE ONLY/FILE NUMBER

**Application to vary a premises licence  
under the Licensing Act 2003**

*Recd at 30/09/10  
12/9/10*

Reference number:

(1)

**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

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

**Part 1 - Premises details**

Postal address of premises or, if none, Ordnance Survey map reference or description  
FASHION CAFE  
2 ST BOTOLPHS STREET

Post town	COLCHESTER	Postcode	CO2 7DX
-----------	------------	----------	---------

Telephone number at premises (if any)

Non-domestic rateable value of premises

**Part 2 - Applicant details**

Daytime contact telephone number

E-mail address (optional)

Current postal address if different from premises address

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)

**TO VARY THE HOURS FOR THE SALE OF ALCOHOL AND REGULATED ENTERTAINMENT ON FRIDAY AND SATURDAY UNTIL 04.00AM WITH A CLOSING TIME OF 04.30AM**

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



## Part 4 - Operating Schedule

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

### Provision of regulated entertainment

Please 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

<b>Plays</b>			Will the performance of a play take place indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2)
Day	Start	Finish	
Standard days and timings (please read guidance note 6)			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 performing plays (please read guidance note 4)
Wed			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)
Thur			
Fri			
Sat			
Sun			

# B

<b>Films</b>			Will the exhibition of films take place indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2)
Day	Start	Finish	
Standard days and timings (please read guidance note 6)			Indoors <input checked="" 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 exhibition of films (please read guidance note 4)
Wed			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)
Thur			AS PER CURRENT LICENCE
Fri			
	10:00	04:00	
Sat			
	10:00	04:00	
Sun			

**C**

<b>Indoor sporting events</b> Standard days and timings (please read guidance note 6)			Please give further details here (please read guidance note 3)	
Day	Start	Finish		
Mon				
Tue				State any seasonal variations for indoor sporting events (please read guidance note 4)
Wed				
Thur				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)  AS PER CURRENT LICENCE
Fri				
	10:00	04:00		
Sat				
	10:00	04:00		
Sun				

**D**

<b>Boxing or wrestling entertainments</b> Standard days and timings (please read guidance note 6)			Will the boxing or wrestling entertainment take place 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 boxing or wrestling entertainment (please read guidance note 4)		
Wed					
Thur			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)		
Fri					
Sat					
Sun					

**E**

<b>Live music</b>			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)			
<b>Day</b>	<b>Start</b>	<b>Finish</b>	Please give further details here (please read guidance note 3)
Mon			
			State any seasonal variations for the performance of live music (please read guidance note 4)
Tue			
			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) <b>AS PER CURRENT LICENCE</b>
Wed			
	10:00	04:00	
Thur			
	10:00	04:00	
Fri			
Sat			
	10:00	04:00	
Sun			

**F**

<b>Recorded music</b>			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)			
<b>Day</b>	<b>Start</b>	<b>Finish</b>	Please give further details here (please read guidance note 3)
Mon			
			State any seasonal variations for the playing of recorded music (please read guidance note 4)
Tue			
			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) <b>AS PER CURRENT LICENCE</b>
Wed			
	10:00	04:00	
Thur			
	10:00	04:00	
Fri			
Sat			
	10:00	04:00	
Sun			

# G

<b>Performances of dance</b> Standard days and timings (please read guidance note 6)			Will the performance of dance take place indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2)
<b>Day</b>	<b>Start</b>	<b>Finish</b>	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			State any seasonal variations for the performance of dance (please read guidance note 4)
Thur			
Fri			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)
Sat			
Sun			

# 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>	Will this entertainment take place indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2)
Mon			Indoors <input type="checkbox"/> Outdoors <input type="checkbox"/> Both <input type="checkbox"/>
			Please give further details here (please read guidance note 3)
Tue			
Wed			
			State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 4)
Thur			
Fri			
			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)
Sat			
Sun			

<b>Provision of facilities for making music</b>			Please give a description of the facilities for making music you will be providing
Standard days and timings (please read guidance note 6)			Will the facilities for making music be indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2)
Day	Start	Finish	Indoors <input checked="" 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 facilities for making music (please read guidance note 4)
Wed			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)
Thur			AS PER CURRENT LICENCE
Fri			AS PER CURRENT LICENCE
	10:00	04:00	
Sat			AS PER CURRENT LICENCE
	10:00	04:00	
Sun			

**J**

<b>Provision of facilities for dancing</b>			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)
Day	Start	Finish	Indoors <input checked="" 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 providing dancing facilities (please read guidance note 4)
Wed			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)
Thur			AS PER CURRENT LICENCE
Fri			AS PER CURRENT LICENCE
	10:00	04:00	
Sat			AS PER CURRENT LICENCE
	10:00	04:00	
Sun			

**K**

<b>Provision of facilities for entertainment of a similar description to that falling within I or J</b>			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) Indoors <input type="checkbox"/> Outdoors <input type="checkbox"/> Both <input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	Please give further details here (please read guidance note 3)
Mon			
			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)
Tue			
			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)
Wed			
Thur			
Fri			
Sat			
Sun			

**L**

<b>Late night refreshment</b> Standard days and timings (please read guidance note 6)			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)
<b>Day</b>	<b>Start</b>	<b>Finish</b>	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 late night refreshment (please read guidance note 4)
Wed			
Thur			
			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)
Fri			
Sat			
Sun			

**M**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 6)			Will the sale of alcohol be for consumption - please tick box <input checked="" type="checkbox"/> (please read guidance note 7)
<b>Day</b>	<b>Start</b>	<b>Finish</b>	On the premises <input type="checkbox"/> Off the premises <input type="checkbox"/> Both <input checked="" type="checkbox"/>
Mon			State any seasonal variations for the supply of alcohol (please read guidance note 4)
Tue			
			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)
Wed			
Thur			
			AS PER CURRENT LICENCE
Fri			
	10:00	04:00	
Sat			
	10:00	04:00	
Sun			



**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)

NONE

**O**

**Hours premises are open to the public**

Standard days and timings  
(please read guidance note 6)

Day	Start	Finish
Mon		
	10:00	03:30
Tue		
	10:00	03:30
Wed		
	10:00	03:30
Thur		
	10:00	03:30
Fri		
	10:00	04:30
Sat		
	10:00	04:30
Sun		
	10:00	03:30

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)

AS PER CURRENT LICENCE

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

NONE

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

**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)

b) The prevention of crime and disorder

**NO FURTHER REQUIRED**

c) Public safety

**NO FURTHER REQUIRED**

d) The prevention of public nuisance

**NO FURTHER REQUIRED**

e) The protection of children from harm

**NO FURTHER REQUIRED**

Please tick ✓ yes

- 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 18/03/10

Capacity owner

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

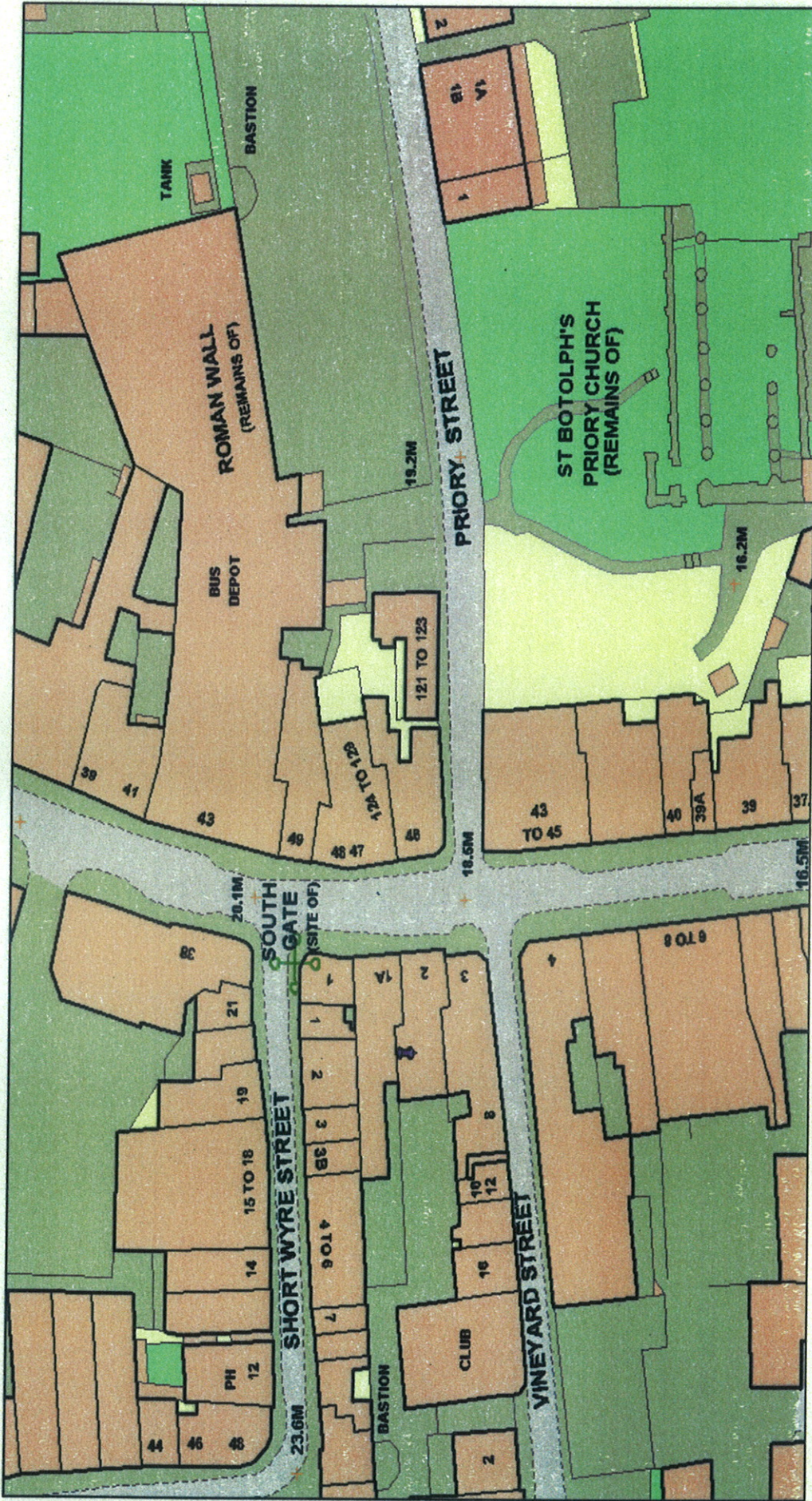
Postcode

Telephone number (if any)

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



# Premises Location Plan



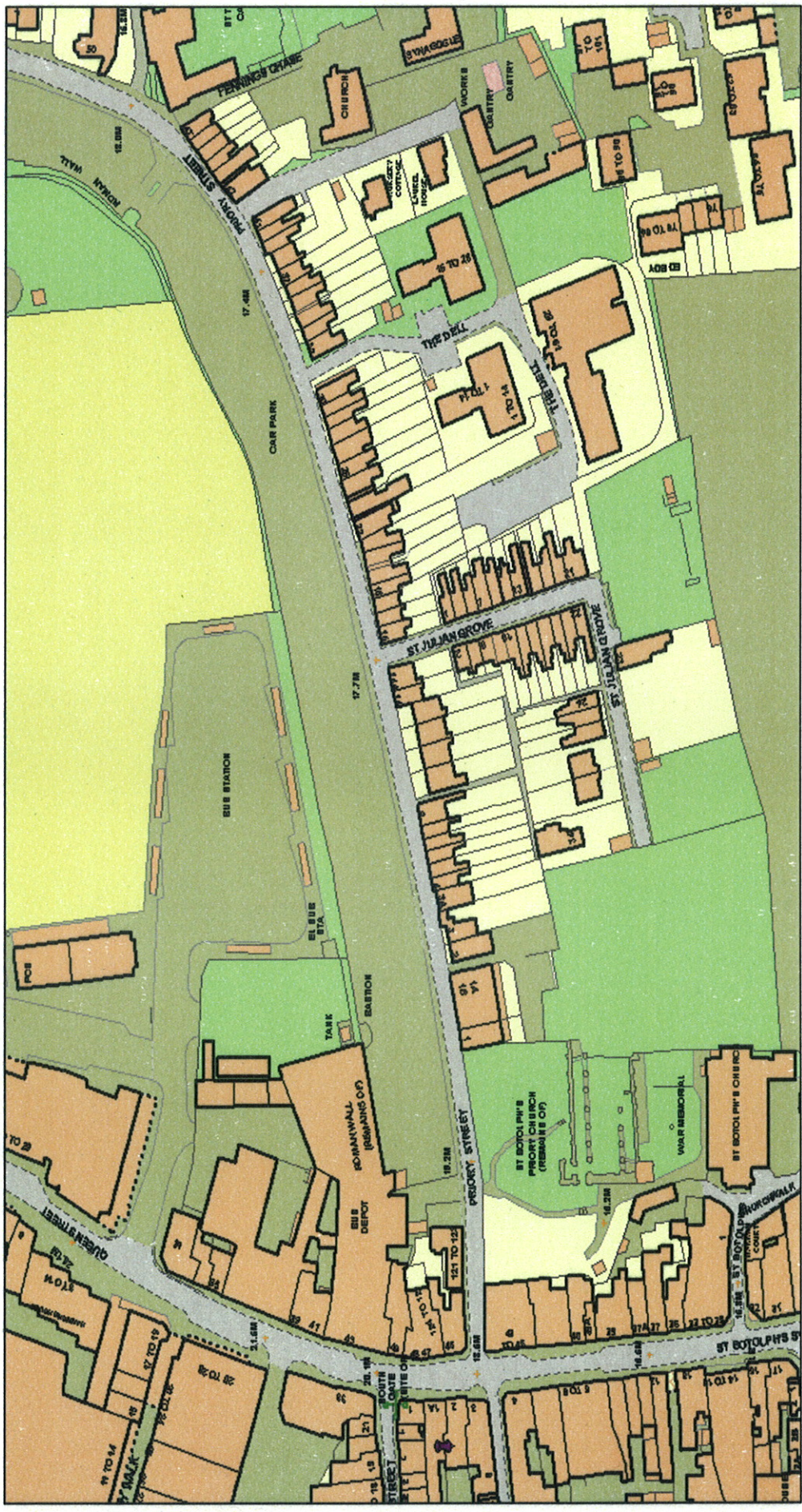
Licence Application Reference: 004330  
 Premises Name & Address: Fashion Cafe Bar 2 St. Botolphs Street Colchester  
 Date Produced: 13 April 2010

MAP NOT TO SCALE

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# Premises Location Plan



**Licence Application Reference:** 004330  
**Premises Name & Address:** Fashion Cafe Bar 2 St. Botolphs Street Colchester  
**Date Produced:** 13 April 2010

MAP NOT TO SCALE

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## Premises Licence

Granted under the Licensing Act 2003 s18

Colchester Borough Council  
Licensing Team  
PO Box 889  
Town Hall  
Colchester CO1 1FL

Premises licence number: 004330

### PART 1 - PREMISES DETAILS

Fashion Cafe Bar  
2 St. Botolphs Street  
Colchester

Post town:

Post code: CO2 7DX

Telephone number at premises: 01206

Date Licence Granted: 9 September 2005

Annual Fee Date: 8 September 2009

### Regulated Activities authorised by this licence:

Performance of Plays	
Film Exhibitions	Licensed
Indoor Sporting Events	Licensed
Boxing or Wrestling Entertainment	
Performance of Live Music	Licensed
Playing of Recorded Music	Licensed
Performance of Dance	
Other Music or Dance Entertainment (see Schedule)	
Facilities for Making Music	Licensed
Facilities for Dancing	Licensed
Other Facilities for Music & Dance	
Late Night Refreshment	
Sale by Retail of Alcohol	Licensed

<b>The times the licence authorises the carrying out of licensable activities:</b>		
<b>a) The sale by retail of alcohol :-</b>		
<b>Monday</b>	10.00 to 03.00	
<b>Tuesday</b>	10.00 to 03.00	
<b>Wednesday</b>	10.00 to 03.00	
<b>Thursday</b>	10.00 to 03.00	
<b>Friday</b>	10.00 to 03.00	
<b>Saturday</b>	10.00 to 03.00	
<b>Sunday</b>	10.00 to 03.00	
<b>Seasonal Variations</b>	New Years Eve and New Years Day - the period between the standard finish time of the authorised period starting on New Years Eve and the standard start time on New Years Day.	
<b>Non-Standard Times</b>	One additional hour into the morning following each Thursday, Friday, Saturday, Sunday and Monday for each Spring, Whitsun and August Bank Holiday. One additional hour into the morning following each Thursday, Friday, Saturday, Sunday and Monday for the Easter holiday weekend. One additional hour each Christmas Eve and Boxing Day. Any other publicly declared holiday one extra hour.	
<b>Further Details</b>		
<b>b) The provision of regulated entertainment and entertainment facilities: –</b>		
	<b>Performance of Plays</b>	<b>Exhibition of Films</b>
<b>Monday</b>		10.00 to 03.00
<b>Tuesday</b>		10.00 to 03.00
<b>Wednesday</b>		10.00 to 03.00
<b>Thursday</b>		10.00 to 03.00
<b>Friday</b>		10.00 to 03.00
<b>Saturday</b>		10.00 to 03.00
<b>Sunday</b>		10.00 to 03.00
<b>Seasonal Variations</b>		
<b>Non-Standard Times</b>		One additional hour into the morning following each Thursday, Friday, Saturday, Sunday and Monday for each Spring, Whitsun and August Bank Holiday. One additional hour into the morning following each Thursday, Friday, Saturday, Sunday and Monday for the Easter holiday weekend. One additional hour each Christmas Eve and Boxing Day. Any other publicly declared holiday one extra hour.
	<b>Indoor Sporting Events</b>	<b>Boxing or Wrestling Entertainment</b>
<b>Monday</b>	10.00 to 03.00	
<b>Tuesday</b>	10.00 to 03.00	
<b>Wednesday</b>	10.00 to 03.00	
<b>Thursday</b>	10.00 to 03.00	
<b>Friday</b>	10.00 to 03.00	
<b>Saturday</b>	10.00 to 03.00	
<b>Sunday</b>	10.00 to 03.00	
<b>Seasonal Variations</b>		



<b>Non-Standard Times</b>	Possibly table football, pool, darts or other similar tournaments.	
	<b>Performance of Live Music</b>	<b>Playing of Recorded Music</b>
<b>Monday</b>	10.00 to 03.00	10.00 to 03.00
<b>Tuesday</b>	10.00 to 03.00	10.00 to 03.00
<b>Wednesday</b>	10.00 to 03.00	10.00 to 03.00
<b>Thursday</b>	10.00 to 03.00	10.00 to 03.00
<b>Friday</b>	10.00 to 03.00	10.00 to 03.00
<b>Saturday</b>	10.00 to 03.00	10.00 to 03.00
<b>Sunday</b>	10.00 to 03.00	10.00 to 03.00
<b>Seasonal Variations</b>		
<b>Non-Standard Times</b>	<p>One additional hour into the morning following each Thursday, Friday, Saturday, Sunday and Monday for each Spring, Whitsun and August Bank Holiday. One additional hour into the morning following each Thursday, Friday, Saturday, Sunday and Monday for the Easter holiday weekend.</p> <p>One additional hour each Christmas Eve and Boxing Day. Any other publicly declared holiday one extra hour.</p>	<p>One additional hour into the morning following each Thursday, Friday, Saturday, Sunday and Monday for each Spring, Whitsun and August Bank Holiday. One additional hour into the morning following each Thursday, Friday, Saturday, Sunday and Monday for the Easter holiday weekend.</p> <p>One additional hour each Christmas Eve and Boxing Day. Any other publicly declared holiday one extra hour.</p>

	<b>Performance of Dance</b>	<b>Other Music or Dance Entertainment</b>
<b>Monday</b>		
<b>Tuesday</b>		
<b>Wednesday</b>		
<b>Thursday</b>		
<b>Friday</b>		
<b>Saturday</b>		
<b>Sunday</b>		
<b>Seasonal Variations</b>		
<b>Non-Standard Times</b>		
	<b>Facilities for Making Music</b>	<b>Facilities for Dancing</b>
<b>Monday</b>	10.00 to 03.00	10.00 to 03.00
<b>Tuesday</b>	10.00 to 03.00	10.00 to 03.00
<b>Wednesday</b>	10.00 to 03.00	10.00 to 03.00
<b>Thursday</b>	10.00 to 03.00	10.00 to 03.00
<b>Friday</b>	10.00 to 03.00	10.00 to 03.00
<b>Saturday</b>	10.00 to 03.00	10.00 to 03.00
<b>Sunday</b>	10.00 to 03.00	10.00 to 03.00
<b>Seasonal Variations</b>		
<b>Non-Standard Times</b>	<p>One additional hour into the morning following each Thursday, Friday, Saturday, Sunday and Monday for each Spring, Whitsun and August Bank Holiday. One additional hour into the morning following each Thursday, Friday, Saturday, Sunday and Monday for the Easter holiday weekend. One additional hour each Christmas Eve and Boxing Day. Any other publicly declared holiday one extra hour.</p>	<p>One additional hour into the morning following each Thursday, Friday, Saturday, Sunday and Monday for each Spring, Whitsun and August Bank Holiday. One additional hour into the morning following each Thursday, Friday, Saturday, Sunday and Monday for the Easter holiday weekend. One additional hour each Christmas Eve and Boxing Day. Any other publicly declared holiday one extra hour.</p>
	<b>Other Facilities for Music &amp; Dance</b>	<b>Late Night Refreshment</b>
<b>Monday</b>		
<b>Tuesday</b>		
<b>Wednesday</b>		
<b>Thursday</b>		
<b>Friday</b>		
<b>Saturday</b>		
<b>Sunday</b>		
<b>Seasonal Variations</b>		
<b>Non-Standard Times</b>		

<b>The Opening Hours of the Premises</b>	
<b>Monday</b>	10.00 to 03.30
<b>Tuesday</b>	10.00 to 03.30
<b>Wednesday</b>	10.00 to 03.30
<b>Thursday</b>	10.00 to 03.30

<b>Friday</b>	10.00 to 03.30
<b>Saturday</b>	10.00 to 03.30
<b>Sunday</b>	10.00 to 03.30
<b>Seasonal Variations</b>	
<b>Non-Standard Times</b>	One additional hour into the morning following each Thursday, Friday, Saturday, Sunday and Monday for each Spring, Whitsun and August Bank Holiday. One additional hour into the morning following each Thursday, Friday, Saturday, Sunday and Monday for the Easter holiday weekend. One additional hour each Christmas Eve and Boxing Day. Any other publicly declared holiday one extra hour.

**Where the licence authorises supplies of alcohol, whether these are on and/or off supplies:**

Alcohol may be served ON the premises

The premises to close 30 minutes after the end of the sale of alcohol.

Alcohol may be served OFF the premises

<b>PART 2</b>	
<b>Name, (registered) address, telephone number and e-mail (where relevant) of holder(s) of premises licence</b>	
<b>Licence Holder 1</b>	<b>Licence Holder 2</b>
Tel: ( ) E-mail:	Tel: E-mail:

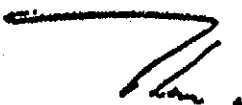
**Registered number of holder; for example, company number, charity number (where applicable):**

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

Tel:

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

4174  
Colchester BC



Simon Harvey  
Licensing Manager

17 December 2009  
Date of issue

## **Annex 1 – Mandatory Conditions**

### **Alcohol**

1. No sale/supply of alcohol shall be made when there is no Designated Premises Supervisor in respect of the Premises Licence.

2. No sale/supply of alcohol shall be made when the Designated Premises Supervisor does not hold a Personal Licence or when his/her Personal Licence is suspended.

3. Every sale/supply of alcohol under the Premises Licence shall be made, or authorised by a person who holds a Personal Licence.

### **Door Supervision**

Where a premises licence includes a condition that at specified times one or more individuals must be present at the premises to carry out a security activity, they must be licensed by the Security Industry Authority

### **Exhibition of Films**

1. Any exhibition of films must be screened in accordance with the category issued by the British Board of Film Classification (BBFC) certification.

2. Admission of persons under the age of 18 shall be restricted in accordance with any recommendation made by the above film classification body and any guidance issued under the Licensing Authority's Statement of Licensing Policy

## Annex 2 – Embedded Restrictions

### Annex 3 – Conditions Carried Forward on Conversion

1. High quality Digital CCTV system with cameras covering the whole of the premises, including the male and female toilets, not looking directly at urinals or into cubicles and all public access areas entrance and exit doors in order to deter drug dealing, assaults and other incidents in accordance with Colchester Crime and Disorder Strategy and section 17 of the Crime and Disorder Act 1998. The Codec format of digital computers must be available to the Police and the Local Authority, in order to download images. (Videotapes/CD discs to be kept for 31 days.) Sufficient staff to be trained efficiently, in the use of CCTV system.
2. Police Officers investigating serious assaults in licensed premises have a duty to seize CCTV videotapes or discs to secure evidence. Video tapes and discs found to be defective or of inferior quality or blanked, should be regarded as a serious breach of the PEL conditions. The holder of the PEL must ensure the best available quality CCTV evidence is handed to Police Officers investigating all incidents and in particular serious incidents. Failure to comply could jeopardise the PEL.
3. A drugs search by consent policy under CCTV cameras as a condition of entry where Door Supervisors are employed should be in place to deter drugs and weapons entering the premises and an appropriate drugs safe box kept on the premises for the security of unlawful drugs seized or found by staff and kept secure until such times that Essex Police can dispose of those drugs lawfully. Essex Police code of practice and recommendation is that 2 in every 10 persons are searched (minimum).
4. Door security if used, must be registered in accordance with the SIA Security Industry Authority). The Public Entertainment Licence Holder and Licensees also have a vicarious responsibility to ensure Door Supervisors are registered and do not exceed their authority outside the premises in the street/public places beyond main entrances and should monitor the ejection of customers by Door Supervisors.
5. Toughened drinking glasses to be used at all times the premises are open.
6. No bottles or glasses to be taken off the premises.
7. Windows and doors to be closed by 23.00 to reduce noise levels from Public Entertainment.
8. Empty bottles and glasses to be collected as soon as possible. (Best practice to reduce incidents of glassing injuries).
9. Polite signs should be placed at all exits from the premises encouraging customers to be quiet on leaving the area and to respect the rights of people living nearby to a peaceful night.
10. Establish an acceptable sound level control system for any musical entertainment so as to avoid unreasonable disturbances to any residents in the immediate vicinity of the premises. A noise-limiting device must be installed, maintained and used for

the duration of each event. Noise levels to be agreed in conjunction with Colchester Borough Council's Licensing Officer and Environmental Control.

11. Free unrestricted drinking water must be available where dancing and public entertainment is being performed as recommended by the Home Office Safer Clubbing guidance for Licensing Authorities, Club Managers, Promoters and Licensees.
12. Colchester Partnership Pubwatch and Clubwatch Anti-Drugs Campaign posters to be displayed on the premises in the bars/toilets to deter drug dealing and using on the premises.
13. No under 18 disco's to be held on the premises.
14. All conditions carried forward on conversion from the Essex Building Surveyors Association Model Conditions of Management for Places of Entertainment.



## **Annex 4 – Conditions Consistent with the Operating Schedule**

### **Conditions Offered by Applicant in the Operating Schedule**

1. Zero tolerance taken to drunkenness, anti-social behaviour including drugs.
2. Management to be members of Colchester and North East Essex Licensed Victualers Association.
3. Provision of smoke detectors and emergency lighting.
4. Photo ID is requested for Proof of Age (photo driving licence, passport or other group scheme).
5. Regular inspection of all electrical and fire appliances.
6. Prominent notices to be exhibited requesting patrons to leave quietly and respect the neighbours.
7. Noise levels to be monitored when customers leave the premises.
8. The surrounding area to be checked daily for rubbish i.e. fast food containers, fish and chip wrappings etc.
9. Taxis arranged for customers if requested.
10. No opened alcohol allowed to be taken out of the building.
11. Children under 14 years of age will be requested to leave the premises by 18.00 except for those attending a private function.
12. Young persons appearing to be under 21 years of age to be asked for photo ID.
13. No adult shows or video films.

### **General - all objectives**

1. Managers check on closing that no bottles, cans or glasses are being taken off premises.

1. High quality CCTV camera to be installed on the foyer ceiling and focused on the front entrance door to record quality images (close ups) of persons entering or leaving the Fashion Cafe premises to promote the Crime Prevention Objective.



## **Annex 5 – Conditions Agreed with Responsible Authorities**

Conditions agreed with Essex Police - August 2005

1. Licensees to join Pub Watch and BOBB scheme and attend at least 3 meetings a year.
2. To operate the Challenge 21 Proof of Age Scheme.

Conditions agreed with Essex Police - January 2009

3. Two door staff be used on Friday, Saturday and Sunday nights
4. The capacity limit be set at 350 persons

**Annex 6 – Conditions Attached after a Hearing by the Licensing Authority**

Condition added at Licensing Sub-Committee meeting on 14 March 2008

1. That an additional CCTV monitor be provided at the front of the building so that the duty doormen can view the screen without leaving their station.

Police Station,  
10 Southway,  
Colchester, CO3 3BU

Telephone: 01206 762212  
Website: www.essex.police.uk  
Facsimile: 01206 761929

Sarah White  
Angel Court  
Colchester Borough Council  
Licensing team  
Colchester  
CO1 1FL

01206 717609  
Fax 01206 717616

06.04.2010

Dear Mr Adem

**Re – Fashion Café, 2, St Botolph's Street, Colchester CO2 7DX - Application for Variation of Premises Licence to extend hours Friday, Saturday from 3am.until 4.30 am for sale of alcohol and other Licensable activities with a closure time of 4.30am.**

**Essex Police, Eastern Division, (Colchester) make the following representations in respect of the application for Variation of a Premises Licence.**

The Fashion Café, 2, St Botolph's Street, Colchester, is located in the identified stress area of Colchester Borough Council's Special Cumulative Impact Policy, in the 'Statement of Licensing Policy' relating to the cumulative impact of a concentration of Licensed Premises in Queen Street/St Botolph's Street area, and comes within the designated mapped area in the Policy at 3.95.

Granting extended opening hours to Fashion Café until 4.30am is likely to exacerbate existing high levels of alcohol related Crime and Disorder, anti-social behaviour, and Public Nuisance in the stress area of town and impact on the Priory street resident's quality of life.

The potential impact on Crime and Disorder or Public Nuisance, on Colchester town centre, is likely to increase, by extending Licensing hours to Fashion cafe, in the stress area, where there **is already a high concentration of Licensed Premises, bars and clubs, and seven Late Night takeaway Establishments**. This is likely to have a **significant potential impact on the promotion of the Licensing Objectives**.

The Government has introduced the Licensing Act 2003 to allow more flexible later opening hours in line with other European Countries. It is envisaged that this style of later licensing hours will produce a more natural dispersal of customers from Bars, and reduce some of the binge drinking and anti-social behaviour problems, stopping customers from binge drinking prior to the closure of Pubs and Clubs and it will see a marked improvement in the reduction of Crime, Disorder and Public Nuisance from alcohol abuse and misuse. This is not the case in the Queen Street/St Botolphs Street area in Colchester, where many alcohol related Crime and Disorder incidents occur over the Night Time economy periods, requiring Police attendance, some of these emanating from Fashion Café Bar.

Later opening at The Fashion Cafe until 4am on Friday and Saturday nights, is likely to increase Alcohol related Crime, Disorder and Public Nuisance in the town centre to local residents and impact on Police resources, thereby undermining the promotion of the Crime Prevention Licensing Objective.

Essex Police oppose later opening hours at the Fashion Cafe on the grounds that it is likely to undermine the promotion of the Licensing Objectives as follows;

- It is likely to lead to an increase in problems associated with Crime and Public Disorder in St Botolph's Street/Queen Street, which will inter-alia be contrary to the statutory obligation under section 17 Crime and Disorder Act 1998 placed upon the Local Authority and Police to reduce Crime and Disorder in or around Licensed Premises and therefore would undermine the Promotion of the Crime Prevention Objective and Public Nuisance Objective.
- It will create an increase in noise nuisance, disorder and anti-social behaviour in the Queen Street and St Botolph's Street, which will exacerbate the existing disorder hot spots in the stress area, where customers are already exiting Clubs and Bars in the stress area, many heading to the seven late night Kebab Takeaways in the stress area, where there are existing problems, and this will have a significant effect on Police resources, taking Officers away from other sections of the Division.

Michael Aitchison  
Divisional Police Licensing Officer

## Appendix 5

You forwarded this message on 07/04/2010 14:20.

**Licensing Committee**

**From:** Henry Spyvee **Sent:** Wed 07/04/2010 12:41  
**To:** Simon Harvey  
**Cc:** Licensing.Committee  
**Subject:** Premises Licence Applications - Fashion Cafe, 2 St. Botolphs Street  
**Attachments:**

Simon,

As one of the Ward Councillors for Castle Ward I object to the application by Fashion Café of 2 St. Botolphs St to extend their opening hours on Fridays and Saturdays to 4.00am for sale of alcohol and closing at 4.30am.

St Botolphs St/Queen St is a Stress Area under the Licensing Act 2003, reflecting the number of pubs, clubs and late night takeaways in the area and the consequent impact on crime and disorder, public nuisance and anti-social behaviour. Increase in the hours of opening to this establishment will have a further adverse effect on the area.

This extension may be followed by similar requests from other establishments, further exacerbating the problems of the area. It is highly likely that late night takeaways will also want to open later as they get much of their business from people leaving club premises.

The longer hours will lengthen the period in which local residents experience anti-social behaviour from loud noise to damage to property by a further hour. Our prime concern is the residents of Priory Street which is both close to St. Botolphs St and a car park. They regularly have to bear the consequences of drunken behaviour as their street is a way home for those leaving the pubs and clubs on foot and by car. In addition we are also concerned for residents living further away such as East Hill and East St who also experience problems. We have had a report from a resident of East St who regularly experiences fights outside her home. The Police try to deal with such problems but this application would, if granted, stretch their resources further.

I trust the Licensing Committee will reject this application.

Regards,

Cllr Henry Spyvee



Charity No. 237885

# Colchester Civic Society

PLEASE REPLY TO:

PLANNING, PROTECTION AND LICENSING RECEIVED - 8 APR 2010 PASSED TO/ACTION/NOTE ONLY/FILE NUMBER	Priory Street Colchester CO1 2QB 7 April 2010
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For the attention of the Licensing Committee  
Colchester Borough Council

Dear Sirs


Objection to the Application for the Variation of the Premises Licence for Fashion Cafe

Colchester Civic Society wishes to object to the proposed change of hours for Fashion Cafe.

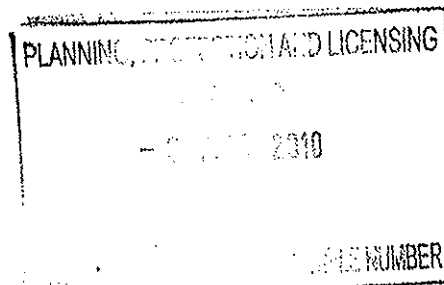
We are surprised that such an application has been made for premises in a Stress Area and trust that the Committee will refuse the application as it would add to the problems of anti-social behaviour already existing in Queen Street and St Botolph's Street at night. Our members have, for many years, been gravely concerned about the effects of the night time economy on the town centre - few will venture into the town at night because they feel uncomfortable and intimidated. They are now questioning how the Cultural Quarter - and the new hotel - are going to succeed in an area blighted by the night time economy. It is not simply the noise - *shouting, argumentative men and shrieking women* - and the disgusting litter - *discarded fast food wrappers mixed with vomit and urine* - but the vandalism - *residents of Priory Street will attest to the damage to vehicles parked in the Priory Street Car Park where, we understand, hotel guests will have parking rights.*

Granting this application would be a disaster - as once one premises has later hours the rest will want them too.

Yours faithfully

 Chair, Colchester Civic Society





Priory Street  
Colchester  
CO1 2QB

7 April 2010

For the attention of the Licensing Committee  
Colchester Borough Council

Dear Sirs

Objection to the Application for the Variation of the Premises Licence for Fashion Cafe

As a resident of Priory Street, I should like to object strongly to the increase in licensing hours sought by Fashion Cafe.

Already the lives of people living near the Queen Street/St Botolph's Stress Area are blighted, from Thursday evening until Sunday morning, by the behaviour of people leaving the various late night/early morning establishments to be found there. They scream, shout, fight, vomit, urinate, defecate, fornicate, litter, vandalise cars and property along the length of our road night after night. If Fashion Cafe's application were to succeed, we should be faced with yet a further extension of such "vibrant" behaviour and that is completely untenable.

It appears to me that a further extension of drinking hours for any establishment within that Stress Area would be totally inappropriate and, I believe commonsense would suggest, be completely against the spirit, if not the letter, of the legislation that allows for the designation of such Areas. Experience has also shown that once one of the establishments in this recognised trouble spot gains extra time in which to inebriate their clientele the other establishments follow suit. It is time that a halt was called.

I am certain that it will be argued that young and not-so-young (much of the anti-social behaviour we witness is occasioned by 30-40 year olds) people's human rights will be denied them if they cannot drink until 4.00am and be poured out at 4.30am. However, it is time that local residents' human right to a reasonable level of peace and quiet and the prospect of an uninterrupted weekend night's sleep was given some precedence.

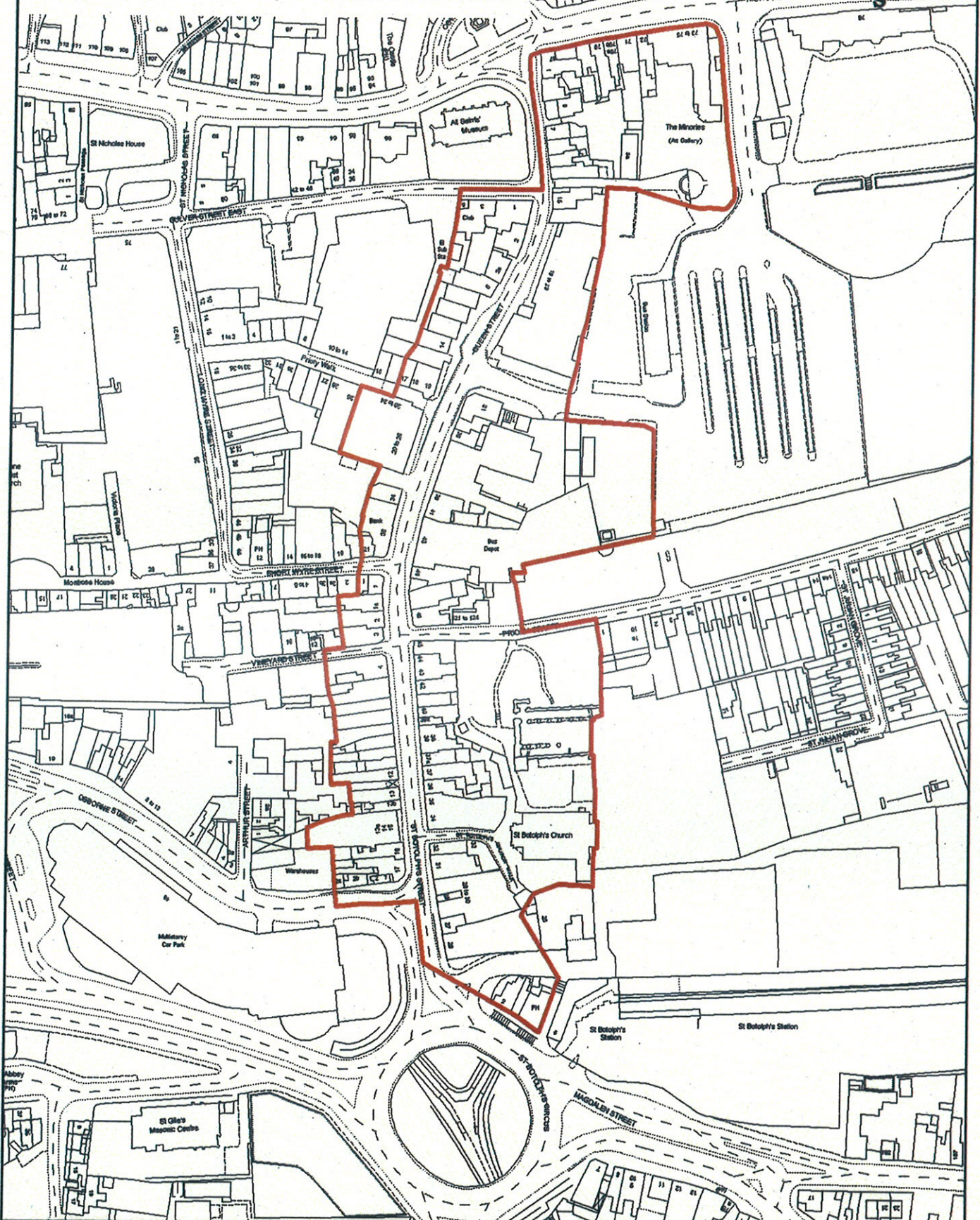
Yours faithfully

Priory Street Resident



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Queen Street / St Botolphs Street Stress Area







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