



PREMISES / PERSONAL LICENCES SUB-COMMITTEE

DATE:	Thursday, 30 May 2019
TIME:	10.00 am
VENUE:	Connaught Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE

MEMBERSHIP:

Most Council meetings are open to the public and press.

Agendas and Minutes are published on the Council's website www.tendringdc.gov.uk. Agendas are available to view five working days prior to the meeting date and the Council aims to publish Minutes within five working days of the meeting.

Meeting papers can be provided, on request, in large print, in Braille, or on disc, tape, or in other languages.

For further details and general enquiries about this meeting, contact Debbie Bunce on 01255 686573.

DATE OF PUBLICATION: Tuesday 21 May 2019

AGENDA

1 Chairman for the Meeting

The Sub-Committee will elect its Chairman for the meeting.

2 Apologies for Absence and Substitutions

The Sub-Committee is asked to note any apologies for absence and substitutions received from Members.

3 Minutes of the Last Meeting (Pages 1 - 4)

To confirm and sign as a correct record, the minutes of the last meeting of the Sub-Committee, held on 2 April 2019.

4 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests or Personal Interest, and the nature of it, in relation to any item on the agenda.

5 Questions on Notice pursuant to Council Procedure Rule 37

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the Tendring District **and** which falls within the terms of reference of the Committee.

6 Report of the Corporate Director (Operational Services) - 5th Avenue, 2-4 Orwell Road, Clacton-on-Sea, Essex CO15 1PR (Pages 5 - 28)

The Sub-Committee is invited to consider an application for the variation of a Premises Licence in respect of the above premises.

Information for Visitors

FIRE EVACUATION PROCEDURE

There is no alarm test scheduled for this meeting. In the event of an alarm sounding, please calmly make your way out of any of the fire exits in the hall and follow the exit signs out of the building.

Please heed the instructions given by any member of staff and they will assist you in leaving the building and direct you to the assembly point.

Please do not re-enter the building until you are advised it is safe to do so by the relevant member of staff.

Your calmness and assistance is greatly appreciated.

This page is intentionally left blank

**MINUTES OF THE MEETING OF THE PREMISES / PERSONAL LICENCES SUB-COMMITTEE,
HELD ON TUESDAY, 2ND APRIL, 2019 AT 10.00 AM
IN THE COUNCIL CHAMBER - COUNCIL CHAMBER**

Present:	Councillors V \E Guglielmi, Cossens, Winfield and Watson (Standby Member)
In Attendance:	Linda Trembath (Senior Solicitor (Litigation and Governance) & Deputy Monitoring Officer), Karen Townshend (Licensing Manager), Emma King (Licensing Officer) and Debbie Bunce (Legal and Governance Administration Officer)

32. CHAIRMAN FOR THE MEETING

It was moved by Councillor Cossens, seconded by Councillor Winfield and

RESOLVED – That Councillor V E Guglielmi be elected Chairman for the meeting.

33. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence or substitutions.

34. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Premises/Licences Sub-Committee held on 1 February 2019 were approved as a correct record and signed by the Chairman.

35. DECLARATIONS OF INTEREST

There were none.

36. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were none.

37. REPORT OF THE CORPORATE DIRECTOR (OPERATIONAL SERVICES) - P-V-S CONVENIENCE STORE, 139 OLD ROAD, CLACTON-ON-SEA, ESSEX CO15 3AT

The Chairman (Councillor Guglielmi) welcomed everyone to the meeting and made introductory remarks.

The Council's Licensing Manager (Karen Townshend) then gave a verbal summary of the written report and advised that the Sub-Committee had before it, for its consideration, as set out in Item A.1 of the Report of the Corporate Director (Operational Services), an application for the variation of a Premises Licence for P-V-S Convenience Store, 139 Old Road, Clacton-on-Sea.

Section 2.2 of the written report set out the proposed opening hours for the premises which were:

Every Day - 0000 to 2359.

Section 3.0 of the written report set out the current licensable activities which were:-

Sale of Alcohol off the premises

Monday to Saturday - 0700 to 0200

Sunday - 0700 to 0100

The applicant had stated the steps that they proposed to take to promote the statutory Licensing Objectives within the Operating Schedule and those steps were detailed in Sections 5.1 to 5.4 inclusive.

Members were further informed that one letter of representation/objection had been received from a resident in relation to this application.

It was reported that no Responsible Authorities had made representations on the application.

The Sub-Committee had before it for its information the relevant extracts from the Council's Statement of Licensing Policy in respect of planning considerations and the statutory 'Prevention of Public Nuisance' Licensing Objective.

Members also had before them for their assistance the relevant paragraphs from the Home Office's Section 182 Guidance that accompanied the Licensing Act 2003 in respect of the following –

- (1) Prevention of Public Nuisance
- (2) Prevention of Crime and Disorder; and
- (3) Hours of Trading

The Members also had before them the Application Form and supporting documentation, a location plan and copies of the representation/objection letter.

The Chairman invited the Applicant, Mr Suresh Theivendram to give representations to the Sub-Committee.

Mr Theivendram stated that, currently, the premises were open to sell alcohol until 2 a.m. and that customers had asked him why he did not open the shop for 24 hours as there were no other shops in the area which were open for longer.

Therefore, he had decided to apply for the 24 hour licence. He stated that the main items that people came into the shop for at night were bread, milk and baby items but that not a lot of alcohol was sold during that time. He mainly sold groceries and soft drinks. He further stated that he had never had any problems in the past with remaining open for 24 hours.

The Chairman asked whether he thought that there would be problems if he was able to sell alcohol 24 hours a day and Mr Theivendram replied that he had not had any problems so far. The lady and children living in the upstairs flat had never complained.

The Chairman asked if any Members had questions that they would like to ask Mr Theivendram.

Members asked Mr Theivendram questions and stated that the existing licence had conditions imposed by Essex Police in that there had to be two people in the shop after 11.00 p.m. at all times and that a Personal Licence Holder had to be on the premises at all times. He replied that he always had two people working in the shop after 11.00 p.m. He also stated that he had adopted the Challenge 25 policy. He kept a register in the shop in this respect which the Council came in to periodically check and he had a sign at the till. Members reminded Mr Theivendram that if the Licence variation was granted the existing conditions would be transferred to the new licence.

Members also asked Mr Theivendram whether he was aware of the problems with alcohol in the Town Centre and he stated that he was, but that there had never been a problem in his part of town as there was a good community in the area.

Members then asked Mr Theivendram how many people he had working at the shop and he replied that three people worked there and that they were all over 21 years of age.

The Sub-Committee, the Council's Solicitor and the Legal and Governance Administration Officer then withdrew from the meeting in order for the Sub-Committee to consider the application and reach a decision.

After a period of time, the Sub-Committee, the Council's Solicitor and the Legal and Governance Administration Officer then returned to the meeting and the Council's Solicitor confirmed that she had not provided any specific legal advice to the Sub-Committee whilst it was making its decision.

The Chairman of the Sub-Committee then read out the following decision:

"Application No: 19/00055/PREMVA – Application for the Variation of a Premises Licence in respect of 139 Old Road, Clacton-on-Sea, Essex.

1. The Sub-Committee has given careful consideration to this application. In reaching our decision, we have taken into account the views expressed by the Applicant, the representations received from a resident along with the Guidance issued by the Secretary of State and other matters set out in the Licensing Authority's own Statement of Licensing Policy.
2. The decision of the Sub-Committee is to GRANT this application in full and to remind the applicant of the existing conditions and that they all remain applicable although noting that in relation to numbers 6 and 7 in Annex 3 these shall be amended so as to require a Personal Licence Holder to be on duty (and 2 staff present) during all periods alcohol is on sale, i.e. Monday to Sunday from 00.00 to 23.59.

Finally, I must mention that all parties who are aggrieved at the decision of the Sub-Committee have a right of appeal to the Magistrates' Court.

This decision was made today, 2 April 2019 and will be confirmed in writing to all parties."

The meeting was declared closed at 10.46 am

Chairman

TENDRING DISTRICT COUNCIL

Procedure for hearings – Premises/Personal Licences Sub-Committee

Licensing Act 2003 and Hearing Regulations 2005

The Licensing Committee officers and their roles

- The Committee Clerk (Democratic Services Officer) records the proceedings;
- The Legal Advisor provides independent advice to the Committee Members on legal matters; and
- The Licensing Officer introduces the matter, outlines the application or review as set out in the Report, and answers any questions Members may have.

Committee Members (Councillors):

Members have a responsibility to declare interests, those who declare **Discloseable Pecuniary Interest (DPI)** as defined by The Relevant Authorities (DPI) Regulations 2012 must not take part in the hearing of the application.

If a Member declares a **Pecuniary or Non-Pecuniary Interests**, as defined by Tendring District Council's Members' Code of Conduct (paragraphs 5 and 6), they must consider the impact of that interest on participation and the public perception;

- Matters for Members to consider would cover, but not exclusively:
 - o they know the applicant or any of the objectors; or
 - o they wish either to support or oppose the granting or continuation of a licence either personally or on behalf of their constituents.
 - o whether they have expressed a view on the application site especially, if situated either in their ward or an adjacent ward;

Other Persons or Interested Parties:

This is the term given to an individual, body or business or a representative acting on their behalf-that raises an objection or make a representation to an application for a premises/personal licence. It should be noted that only the Police can make a representation against a Personal Licence application however. These other persons or interested parties are separate to Responsible Authorities, who may also be a party to the hearing.

PROCEDURE

THESE SUB-COMMITTEES MEETINGS & THE HEARING ARE HELD IN PUBLIC, UNLESS THERE IS A LEGAL REASON NOT TO DO SO, HOWEVER THESE ARE IN LIMITED CIRCUMSTANCES.

Note: if the Sub-committee does not have an elected Chairman already, the election of one Member as Chairman will be the first item of business.

HEARING

Step	By whom	
1	Chairman	<p>The Chairman will welcome everyone to the meeting then:</p> <ul style="list-style-type: none"> a. introduce themselves and the other 2 members and explain that the 4th member (substitute) will not take any part in the hearing or decision making process unless there is a valid objection to one of the other members sitting, if any interest declared debars a member or a member falls ill; b. announce the item to be considered; c. confirm that this procedure will be followed at the hearing, including any maximum periods of time for each side to put their case or objections (*); d. ask all parties, including any "Responsible Authority", to introduce themselves indicating whether or not they are represented, if they are calling any witnesses and if so to identify the witnesses they will be calling. Where there are a number of objectors they will be asked to confirm who their spokesperson is if it is relevant or appropriate for them to do so. e. if a party or Responsible Authority who has made relevant representations is not present, the Sub-Committee will decide whether they consider it in the public interest to (a) continue with the hearing or (b) defer it to enable the party or authority to attend. In reaching a decision on this point, the Sub-Committee will consider any information received from the party either directly or via the Licensing Officer or any other interested person/party where relevant or appropriate; f. remind all present that the Sub-Committee can only make its decision based on the four licensing objectives, namely: <ul style="list-style-type: none"> (1) prevention of crime and disorder, (2) public safety, (3) prevention of public nuisance and (4) protection of children from harm.

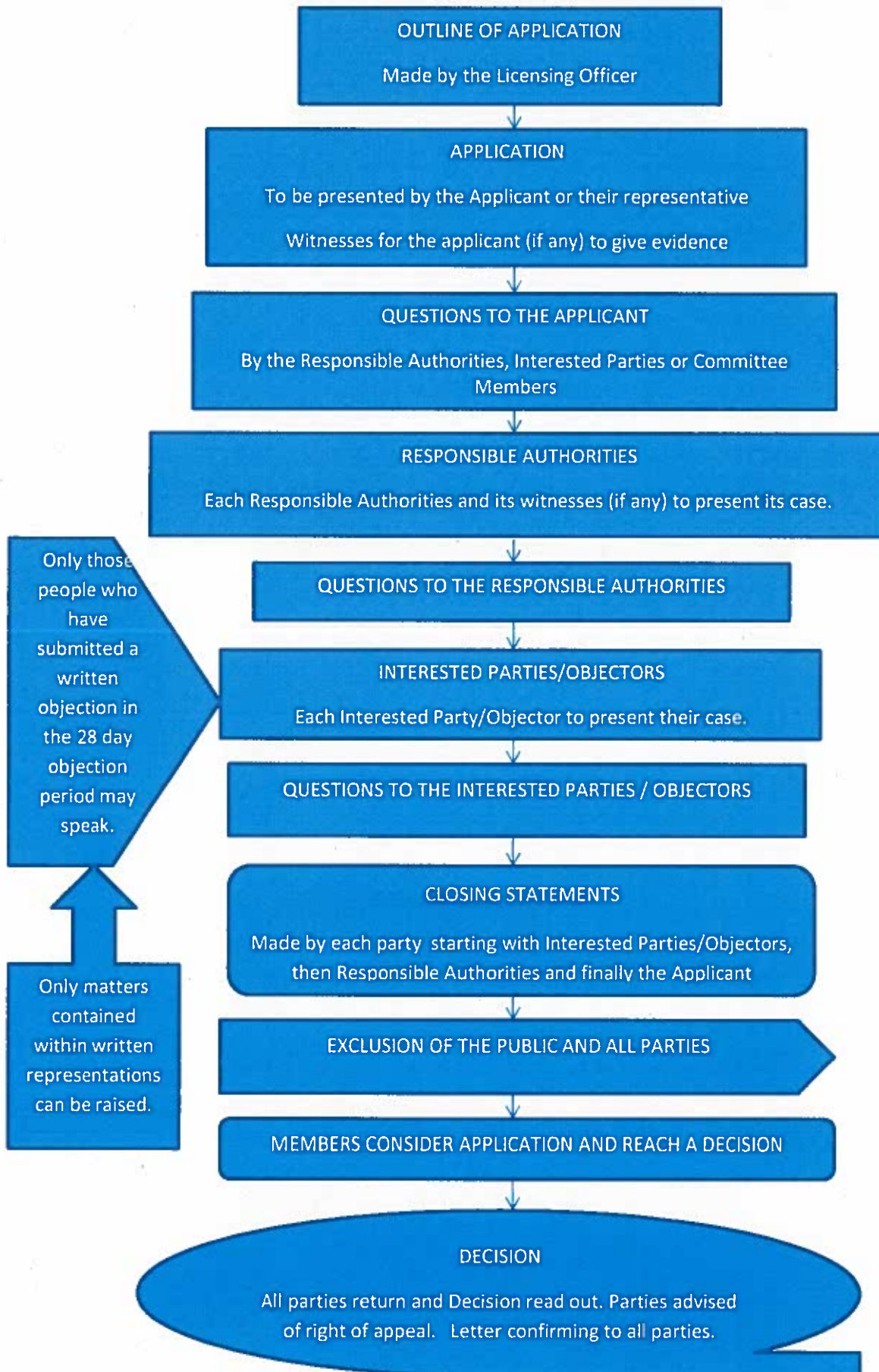
2	Licensing Officer	Will introduce the application or review, highlighting areas of contention or dispute.
3	Committee members	May ask questions of the Licensing Officer.
<p>The Applicant's case</p> <p>(If a person or party requests a review of an existing licence, they would in effect be the Applicant for the review. In those circumstances they would present their case following the summary given by the Licensing Officer)</p>		
4	Applicant or their representative	Will present their case and call witnesses.
5	Responsible authorities or Interested Parties	Each, in turn, may ask questions of the Applicant by way of clarification.
6	Committee members	In turn, each may ask questions of the Applicant.
7	Applicant	May ask any further questions of any witnesses to clear up any points raised in the earlier questioning.
<p>The Responsible Authorities and/or Interested Parties</p>		
8	Responsible Authorities	Will make their representations to the Sub-Committee.
9	Applicant or their representative	May ask questions of the Responsible Authorities by way of clarification.
10	Other persons	May ask questions of the Responsible Authorities or Licensing Officer by way of clarification. Note: this is not the time for other persons to put their objections.
11	Committee Members	May ask questions of the Responsible Authorities by way of clarification. Committee can also ask questions of the objectors by way of clarification.
12	Interested Parties	At this point those who have objected to the application will be asked to present their objections and make observations on the application if appropriate.

13	Applicant or their representative	May ask questions of the Interested Parties /objectors by way of clarification.
14	Committee members	May ask questions of the Interested Parties /objectors.
Closing statements or summary		
15	Chairman	<p>Will ask:</p> <ul style="list-style-type: none"> a. both the Responsible Authorities and Interested Parties /objectors to comment, briefly, on the application or review and summarise their position. No new issues can be raised at this point. b. the applicant or their representative to summarise the application or review and briefly comment on the representations or objections made. c. if everyone is satisfied that they have said what they wanted to say, but making clear that no new issues can be raised at this point.
DECISION MAKING		
16	Sub-Committee	Will retire to consider the application or review and may request the Legal Advisor and/or Committee Clerk to retire with them.
RESUMING THE MEETING AND CONCLUSION		
17	Legal Advisor	If legal advice has been given to the Members whilst in retirement, this advice will be summarised and repeated in the presence of all parties.
18	Chairman	<p>Will:</p> <ul style="list-style-type: none"> a. announce the decision made by the sub-committee and the reasons for that decision; b. advise that the decision, and reasons, will be confirmed in writing to all the parties who made representations; and c. advise all parties of their rights of appeal to the Magistrates' Court.

(*) after receiving copies of this procedure, all parties are requested to give the Council's Licensing Department an indication of the time estimated to present their case. This will be taken into consideration when deciding whether maximum periods of time will be necessary.

TENDRING DISTRICT COUNCIL

THE LICENSING SUB-COMMITTEE HEARINGS PROCEDURE



PREMISES/PERSONAL LICENCES SUB-COMMITTEE

30 MAY 2019

REPORT OF CORPORATE DIRECTOR [OPERATIONAL SERVICES]

LICENSING ACT 2003

Members are respectfully reminded that, in determining the matters listed under item A.1, they are exercising an administrative function but should determine each matter adopting the civil burden of proof, i.e. 'on the balance of probabilities'. The matters will be determined on the facts before the Sub-Committee and the rules of natural justice will apply. Each application must be considered in its own right and on its own merits.

Premises Licence Applications

The Licensing Act 2003 established a single integrated scheme for licensing premises that are used for the supply of alcohol, regulated entertainment or provision of late night refreshment. This system of licensing incorporates the sale of alcohol both on and off licensed premises; public entertainment such as music, dancing, indoor sporting events, boxing or wrestling, theatres, cinemas; and late night refreshment houses and take-aways.

The purpose of the licensing system is to positively promote the four 'licensing objectives'.

These are:

- The Prevention of Crime and Disorder
- The Prevention of Public Nuisance
- Public Safety
- The Protection of Children from Harm.

The options open to the Sub-Committee when considering this application are:

1. To grant the application for a premises licence subject to such conditions that are consistent with the operating schedule accompanying the application and any mandatory conditions applicable.
2. To grant the application for the premises licence subject to such conditions as are consistent with the operating schedule accompanying the application and which are modified to such an extent as the Sub Committee considers appropriate for the promotion of the licensing objectives, and any mandatory conditions applicable.
3. To grant the licence as above, but to exclude from the scope of the premises licence any of the licensable activities to which the application relates.
4. To reject the application.

When determining the application with a view to promoting the licensing objectives in the overall interests of the local community the Licensing Authority in the form of the Licensing Sub-Committee must have regard and give appropriate weight to the following:

- Full Hearing Procedure for Applications for Premises Licences/Club Premises Certificates where representations have been received.
- Tendring District Council's Statement of Licensing Policy.
- The Statutory Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
- The steps appropriate to positively promote the four 'Licensing Objectives'.
- Representations (including supporting information) presented by all the parties.

Human Rights Implications

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

In making their decision as to whether to grant this application, Members of the Premises/Personal Licences Sub-Committee should also take into consideration 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 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.

Members are requested to consider the information shown below where the Licensing Authority has received a representation about an application which is relevant to one or more of the four licensing objectives, and which suggests that the application may have a negative impact on one or more of the licensing objectives.

A.1 LICENSING ACT 2003 – APPLICATION NO: 19/00218/PREMA APPLICATION FOR THE VARIATION OF A PREMISES LICENCE: 5TH AVENUE, 2-4 ORWELL ROAD, CLACTON ON SEA, ESSEX CO15 1PR

1.0 APPLICATION DETAILS

1.1 Applicants

Ms Carol Pickett

1.2 Premises

5th Avenue, 2-4 Orwell Road, Clacton on Sea, Essex CO15 1PR

1.3 Agents

None

1.4 Ward

Pier

1.5 Reason for Application

To play music/karaoke on the outside seating area with speakers facing down not out to minimise disturbance to neighbouring properties.

2.0 GENERAL DESCRIPTION OF PREMISES

2.1 The original application stated the premises is an off licence/convenience store.

2.2 Proposed Opening Hours (Variation Application)

Monday to Wednesday	10:00 - 00:30
Thursday to Saturday	10:00 - 02:30
Sunday	10:00 - 00:30

3.0 CURRENT LICENSABLE ACTIVITIES

Sale of Alcohol on and off the premises

Monday to Wednesday	10:00 - 00:00
Thursday to Saturday	10:00 - 02:00
Sunday	10:00 - 00:00

Provision of facilities for dancing

Thursday to Saturday	18:00 - 02:00
Thursday to Saturday	18:00 - 00:00
Sunday	12:00 - 00:00

Performance of Recorded Music

Monday to Wednesday	10:00 - 00:00
Thursday to Saturday	10:00 - 02:00
Sunday	10:00 - 00:00

Late Night Refreshment

Monday to Sunday	23:00 - 02:00
------------------	---------------

4.0 PROPOSED LICENSABLE ACTIVITIES (VARIATION APPLICATION)

4.1 Performance of Live Music [outside]

Saturday and Sunday	13:00 - 20:00
---------------------	---------------

4.2 Performance of Recorded Music [outside]

Saturday and Sunday	13:00 - 20:00
---------------------	---------------

5.0 STEPS THAT APPLICANTS PROPOSE TO TAKE TO PROMOTE THE LICENSING OBJECTIVES WITHIN THEIR OPERATING SCHEDULE

The applicant has stated the following steps in the application to promote the licensing objectives. These measures are reproduced as shown in the application form and are detailed below for ease of reference. These are:

5.1 Crime and Disorder

CCTV
Doorstaff
Fully licensed bar staff
TENBAC membership
Use of Plastic Glasses if requested or in company of children

5.2 Public Safety

As Above
Segregated area
First Aiders

5.3 Prevention of Public Nuisance

Speakers facing down and measures a per B

5.4 Protection of Children from Harm

No unaccompanied children inside or outside the premises

5.5 General Information in support of the application in relation to all of the licensing objectives.

All necessary steps taken as listed.
Not to exceed maximum occupancy.
All necessary safety signage; "Challenge 25" Scheme

5.6 Attached as background information under paragraph **12.0** of this report and for the information of the Members of the Licensing Sub Committee and all other relevant and interested parties to this hearing, is a copy of the current conditions of licence attached to the premises licence for 5th Avenue, 2-4 Orwell Road, Clacton on Sea, Essex.

6.0 RELEVANT REPRESENTATIONS

6.1 Interested Parties/Other Persons

6.2 The Police Reform and Social Responsibility Act 2011 (PRSR Act 2011) removed from the Licensing Act 2003 the specific reference for representations to be made by 'interested parties' and also removed the requirement that representations could only be accepted from persons living in the 'vicinity' of the premises concerned, or who had for example, a business in the 'vicinity' of the premises.

6.3 There was no guidance or definition of 'vicinity' within the Licensing Act 2003 which effectively had a limiting effect on those that could make relevant representations.

6.4 The PRSR Act 2011 replaced the references to 'interested parties' and 'vicinity' and substituted that representations can be made and accepted by the Licensing Authority from 'other persons' which means that those persons do not necessarily have to live or run a business for example in the proximity of the premises to be able to submit a valid and relevant representation.

6.5 The relevant extracts from the Section 182 Guidance that accompanies the Licensing Act 2003 advises the following in relation to 'other persons' in so far as they relate to this particular application and hearing. They are shown in italics for ease of reference.

8.12 As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition, these persons may themselves seek a review of a premises licence. Any representations made by these persons must be 'relevant', in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious.

6.6 Representations can be made either against or in support of an application. The relevant extracts from the Section 182 Guidance that accompanies the Licensing Act 2003 advises the following in relation to this point.

9.3 Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

6.7 1 letter of representation/objection has been received from a business/resident in relation to this application.

7.0 RESPONSIBLE AUTHORITIES

7.1 Essex Police has been consulted and submitted a representation on the grounds of noise disturbance. However, this has not been upheld by the Licensing Authority due to the noise management plan that was submitted to Environmental Control; with which they were satisfied.

7.2 The Council's Planning Authority has been consulted and no comments have been received.

7.3 The Councils Pollution and Environmental Control team has been consulted and have no objections since the submission of the noise management plan.

8.0 POLICY CONSIDERATIONS

The Licensing Authority's Statement of Licensing Policy expects applicants to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance relevant to the individual style and characteristics of their premises.

8.1 The relevant extract from the Council's Statement of Licensing Policy in respect of the 'Prevention of Public Nuisance' licensing objective is as follows:

5.0 PREVENTION OF PUBLIC NUISANCE

5.1 Licensed premises, if poorly or irresponsibly managed, can have a significant potential to impact adversely on communities through public nuisances that arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

5.2 The Licensing Authority intends to interpret "public nuisance" in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

5.3 Applicants need to be clear that the Licensing Authority may apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant representations have been received. Any such measures should be appropriate and proportionate to the individual nature of the premises and how it intends to operate. E.g. its hours of opening, its alcohol sales and its licensable activities. It may also take into account the location of the premises. For instance, if a shop or supermarket wished to open in a location selling alcohol where there were existing known street drinking problems and alcohol related disorder and anti- social behaviour, the Licensing Authority will welcome the applicant individually and voluntarily working with the Licensing Authority and other Responsible Authorities in taking appropriate measures to reduce the existing problems, or at the very least not to contribute to them further. For example the individual off sale outlet in question may voluntarily offer not to sell very low cost, non- craft, super strength lagers, beers or ciders with an ABV of 6.5% or over, or not sell single cans of very low cost super strength lagers, beers or ciders. Any such partnership working must however fully comply with for example; the Local Government Association guidance to Local Authorities dated December 2014 on 'Reducing the Strength' schemes and the Competition and Market Authority guidance to retailers dated March 2015. Conversely, premises for which it can be demonstrated have effective controls and measures in place, or are proposed to prevent public nuisance, may be suitable for 24-hour opening for example.

5.4 In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are exceptional reasons relating to disturbance or disorder. For instance, if a shop or supermarket wished to open for longer hours in a location selling alcohol where there were existing known street drinking problems and alcohol related disorder and anti- social behaviour, the Licensing Authority will welcome the applicant individually and voluntarily working with the Licensing Authority and other Responsible Authorities in taking appropriate measures to reduce the existing problems, or at the very least not to contribute to them further. For example the off sale outlet in question may voluntarily offer not to sell very low cost, non- craft, super strength lagers, beers or ciders with an ABV of 6.5% or over, or not sell single cans of low cost super strength lagers,

beers or ciders. Any such partnership working must however fully comply with for example; the Local Government Association guidance to Local Authorities dated December 2014 on 'Reducing the Strength' schemes and the Competition and Market Authority guidance to retailers dated March 2015.

- 5.5 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.
- 5.6 When addressing the issue of prevention of public nuisance, the applicant should demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:-
- (a) The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship.
 - (b) The hours of operating, particularly between 23.00 and 07.00.
 - (c) 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 premises.
 - (d) The design and layout of premises and in particular the presence of noise limiting features.
 - (e) The occupancy capacity of the premises.
 - (f) The availability of public transport.
 - (g) A 'wind down period' between the end of the licensable activities and closure of the premises.
 - (h) A last admission time.

Control Measures

- 5.7 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:-
- (a) Effective and responsible management of premises including for example, sufficient numbers of staff who hold a Personal Licence qualification.
 - (b) Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, e.g. to ensure customers leave quietly.
 - (c) Control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries, collections and clearing up of glasses or bottles.
 - (d) Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by the Institute of Acoustics, Licensed Property: Noise, published by BBPA).
 - (e) Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
 - (f) Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises.
 - (g) Liaison with public transport providers.
 - (h) Sighting of external lighting, including security lighting.
 - (i) Management arrangements for collection and disposal of litter including the provision of appropriate receptacles.
 - (j) Clearly showing the name of the premises on all disposable packaging used for takeaway food and/or hot drinks.
 - (k) Effective ventilation systems to prevent nuisance from odour.

9.1 The following sections shown below in italics are taken from the Home Office Section 182 Guidance that accompanies the Licensing Act 2003 and are included for the assistance of the Licensing Sub Committee, the applicant, responsible authorities, residents and any other interested parties to this hearing. They do not however form the totality of the guidance in relation to this licensing objective which should also be considered in its entirety. These are:

2.14 *The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.*

2.15 *Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.*

10.0 RELEVANT SECTION 182 GUIDANCE- PREVENTION OF CRIME AND DISORDER

10.1 The following section shown below in italics is taken from the Home Office Section 182 Guidance that accompanies the Licensing Act 2003 and is included for the assistance of the Licensing Sub Committee, the applicant, responsible authorities, residents and any other interested parties to this hearing. They do not however form the totality of the guidance in relation to this licensing objective which should also be considered in its entirety. This is:

2.1 *Licensing Authorities should look to the police as the main source of advice on crime and disorder.*

11.0 RELEVANT SECTION 182 GUIDANCE- HOURS OF TRADING

11.1 The following sections shown below in italics are taken from the Home Office Section 182 Guidance that accompanies the Licensing Act 2003 and are included for the assistance of the Licensing Sub Committee, the applicant, responsible authorities, residents and any other interested parties to this hearing. This is:

Hours of trading

10.13 *The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.*

10.14 *Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would*

undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.

12.0 ASSOCIATED PAPERS

The following papers are attached as part of this agenda for Members of this Sub-Committee only:-

- (i) Application form and any supporting documentation.
- (ii) Location Plan.
- (iii) Copy of current licence conditions attached to premises licence
- (iv) Copy of representation [Edensor Care Centre - Letter dated 28/04/2019

Copies of all documentation concerning this application are also available from Public Experience upon request.

13.0 DECISION

- 13.1 The Licensing Sub Committee is asked to determine this application taking into consideration the application in its own right and on its own merits and also all of the relevant information that has been submitted as part of this report and at the hearing itself.

PAUL PRICE
CORPORATE DIRECTOR [OPERATIONAL SERVICES]

Schedule 12

Part A

Regulation 33,34

Tendring District Council Premises Licence

Premises Licence Number

15/00001/PREMTR

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

The Lemon Tree Hotel
2 - 4 Orwell Road
Clacton On Sea
Essex
CO15 1PR

Telephone number

Where the licence is time limited the dates

Not Applicable

Licensable activities authorised by the licence

Sale of Alcohol on and off the premises
Provision of facilities for dancing
Performance of Live Music
Performance of Recorded Music
Late Night Refreshment

Times the licence authorises the carrying out of licensable activities

Sale of Alcohol on and off the premises

Monday to Wednesday 10:00 - 00:00

Sale of Alcohol on and off the premises

Thursday to Saturday 10:00 - 02:00

Sale of Alcohol on and off the premises

Sunday 10:00 - 00:00

Provision of facilities for dancing

Thursday to Saturday 18:00 - 02:00

Performance of Live Music

Thursday to Saturday	18:00 - 00:00
Performance of Live Music	
Sunday	12:00 - 00:00
Performance of Recorded Music	
Monday to Wednesday	10:00 - 00:00
Performance of Recorded Music	
Thursday to Saturday	10:00 - 02:00
Performance of Recorded Music	
Sunday	10:00 - 00:00
Late Night Refreshment	
Monday to Sunday	23:00 - 02:00

Non Standard Timings

Sale of Alcohol on and off the premises, Provision of facilities for dancing, Performance of Live Music, Performance of Recorded Music, Late Night Refreshment

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, Midnight on 31 December)

The opening hours of the premises

Monday	10:00 - 00:30
Tuesday	10:00 - 00:30
Wednesday	10:00 - 00:30
Thursday	10:00 - 02:30
Friday	10:00 - 02:30
Saturday	10:00 - 02:30
Sunday	10:00 - 00:30

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

Sale of Alcohol on and off the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Ms Carol Lorraine Pickett
The Lemon Tree Hotel
2 - 4 Orwell Road
Clacton On Sea
CO15 1PR

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

Not Applicable

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

Ms Carol Pickett
14 D'Arcy Road
St Osyth
Clacton On Sea
Essex
CO16 8QE

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

Personal Licence Number

TDX0969

Licensing Authority

Tendring District Council

for and on behalf of the Licensing Authority



June Clare

CORPORATE DIRECTOR

Dated: 16 January 2015

Annex 1 – Mandatory conditions

- 1 No supply of alcohol may be made under the Premises Licence:-
 - (a) At a time when there is no Designated Premises Supervisor in respect of the Premises Licence, or
 - (b) At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.
- 2 Every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a Personal Licence.
- 3 (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children:
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on–
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
 - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
- 4 The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
- 5 The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
- 6 (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

- 7 The responsible person shall ensure that:
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
 - (b) customers are made aware of the availability of these measures.

Annex 2 – Conditions consistent with the Operating Schedule

- 1 The maximum occupancy of the premises shall be 160 persons during the performance of live music and dancing.
- 2 All entrance doors and external windows to the Corporate Lounge and the Bar Dining area shall be kept closed other than for access and egress when the performance of live music and dancing or discos take place after 23:00 hours.
- 3 Clear, legible notices shall be displayed at all public exits to the premises, and the car park area, requesting patrons to respect the needs of local residents and to leave the premises quietly.
- 4 The performance of live music as regulated entertainment shall not be audible, so as to cause nuisance at the boundaries surrounding premises.
- 5 All children must be accompanied by an adult.
- 6 Children are only permitted on the premises if a guest is staying at the hotel or a guest at a function.
- 7 The premises will operate a "Challenge 25" scheme, or equivalent, requiring those appearing to be 25 years or under to be asked for accredited identification as to their age.
- 8 Any conditions consistent with the Operating Schedule not specified above.

Annex 3 – Conditions attached after a hearing by the licensing authority

None

Annex 4 – Plans

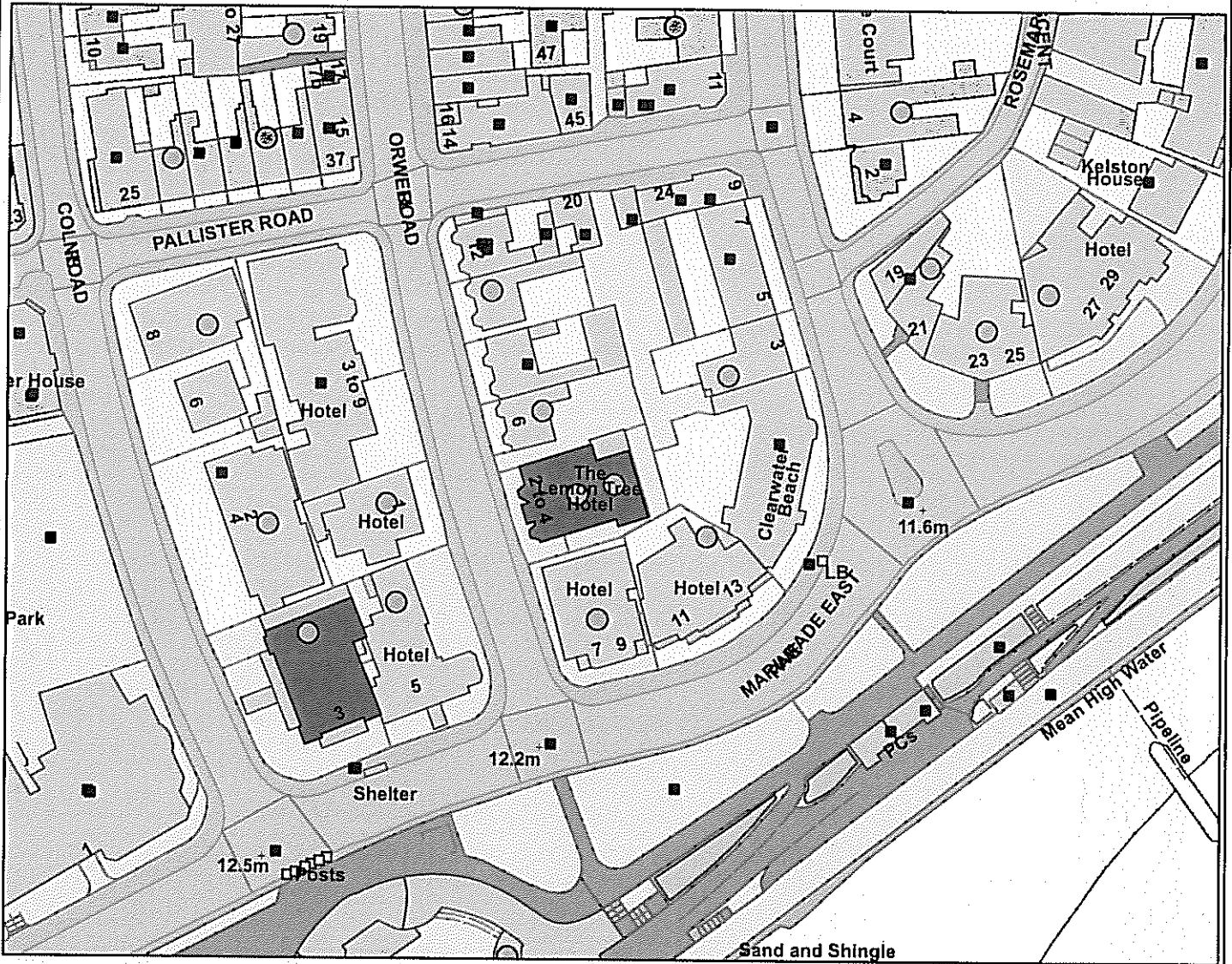
Plans are attached to this Licence

This page is intentionally left blank

5th Avenue

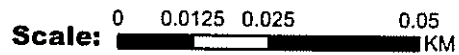


2 - 4 Orwell Road, Clacton on Sea



Legend

[Empty legend box]



Reproduced from the Ordnance Survey map with permission of the Controller of Her Majesty's Stationary Office © Crown Copyright 2012.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Organisation	Tendring District Council
Department	Licensing Section
Comments	19/00218/PREMVA
Date	29/04/2019
MSA Number	100018684

This page is intentionally left blank

Tendring District Council
Licencing Section
88-90 Pier Avenue
Clacton-on-Sea CO15 1TN

28th April 2019

Dear Sir/Madam

**LICENCING APPLICATION - CAROL PICKET, 5TH AVENUE, 2-4 ORWELL RD,
CLACTON-ON-SEA, CO15 1PR**

I write this letter in objection to the above application for variance on the stated statutory notices whereby this venue be allowed to play outside music/karaoke between the stated hours and the stated days.

I am the registered manager of Edensor Care Centre situated directly opposite this venue, at the address stated at the foot of this letter. We are an elderly nursing care home with a capacity of 48 residents. Our residents are mostly elderly frail and many are at 'end of life' stage.

In its current operation this venue operates loud music/karaoke often with the front doors open and the music streaming out into the street. This already causes discomfort and distress to our elderly residents.

We must strongly object to any further variance of the current licencing which will cause even greater discomfort and distress to our elderly residents, which will undoubtedly affect both their physical and mental wellbeing. In particular, this is not something that a resident who is 'end of life' stage should have to be subjected to. This is not conducive to a peaceful environment at this final stage of your life.

In addition, our care home is in the business of operating in a competitive market for selling our rooms to those in need. The playing of loud music outside this venue will definitely put our home at a competitive disadvantage to other homes in the area.

Edensor Care Centre is part of Diagrama Healthcare Services, an operating company of the Diagrama Foundation, a registered charity/not-for-profit organisation. Our care services are mainly offered to clients within the Tendring area through a framework agreement with Essex County Council.

We would appreciate if you could take our objection into account when making your decision. We would like to be informed about your decision at the earliest opportunity so we may consider further representation, legal or other.

Yours sincerely



Muhammed Neeliyath
Registered Manager

Edensor Care Centre (Diagrama Healthcare Services Ltd)
3-9 Orwell Road, Clacton on Sea, Essex CO15 1PR

email: muhammed.neeliyath@diagrama.org
telephone: 01255423317

Diagrama Foundation
Anchorage House
47-67 High Street
Chatham
Kent. UK
M4 4EE

www.diagramafoundation.org.uk
email: diagrama@diagramafoundation.org.uk
Tel: 01634 545000

This page is intentionally left blank