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# PREMISES / PERSONAL LICENCES SUB-COMMITTEE

DATE: Tuesday, 8 August 2023

TIME: 10.00 am

VENUE: Committee Room - Town Hall,

Station Road, Clacton-on-Sea, CO15

1SE

**MEMBERSHIP:** 

Councillor Dan Casey Councillor Peter Kotz

Councillor Adrian Smith Councillor Ann Wiggins (standby Member)

AGENDA

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DATE OF PUBLICATION: Thursday, 3 August 2023

#### **AGENDA**

#### 1 Chairman for the meeting

The Sub-Committee is required to elect its Chairman for this meeting.

#### 2 Apologies for Absence and Substitutions

The 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 Friday 10 March 2023.

#### 4 <u>Declarations of Interest</u>

Councillors are invited to declare any Disclosable Pecuniary Interests, Other Registerable Interests of Non-Registerable Interests, and the nature of it, in relation to any item on the agenda.

5 Report of Assistant Director (Governance & Legal) - A.1 - Temporary Event Notice - The Esplanade Hotel, 27 - 29 Marine Parade East, Clacton-on-Sea: Reference: TENOP/4852/23 (Pages 5 - 18)

To provide information in order that the Premises/Personal Licenses Sub-Committee can determine an objection to a Temporary Event Notification (TEN). The objection has been lodged by Essex Police.

### **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 room 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.

Premises / Personal Licences Sub-Committee 10 March 2023

#### MINUTES OF THE MEETING OF THE PREMISES / PERSONAL LICENCES SUB-COMMITTEE,

## HELD ON FRIDAY, 10TH MARCH, 2023 AT 11.30 AM IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA, CO15 1SE

Present:	Councillors V Guglielmi, Casey and Coley
Also Present:	Councillor Winfield
In Attendance:	Linda Trembath (Head of Legal Services & Deputy Monitoring Officer), Michael Cook (Licensing Manager), Emma King (Licensing Officer) and Hattie Dawson-Dragisic (Performance and Business Support Officer)

#### 52. CHAIRMAN FOR THE MEETING

It was moved, seconded and:

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

#### 53. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence had been received from Councillor Davis. Pursuant to the provisions of Council Procedure Rule 34.5, Councillor Casey had been appointed to take her place on the Sub-Committee.

#### 54. MINUTES OF THE MEETINGS OF THE SUB-COMMITTEE 8 APRIL 2022

The minutes of the meeting of the Premises/Personal Licences Sub-Committee held on 8 April 2022 were approved as a correct record and signed by the Chairman.

#### 55. DECLARATIONS OF INTEREST

There were none.

## 56. REPORT OF ASSISTANT DIRECTOR (GOVERNANCE & LEGAL) - A.1 - APPLICATION FOR THE GRANT OF PERMISSION TO SHOW UNCLASSIFIED FILMS

The Council's Licensing Manager (Michael Cook) 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 Assistant Director (Governance and Legal), a request for the licence holder (Michael Offord of Electric Palace Harwich) to show to the public a number of short films that had not been classified by the British Board of Film Classification. Mr Cook also informed the Sub-Committee that the films were due to be shown at the Electric Palace Harwich at the end of March 2023.

The Licensing Manager further advised the Sub-Committee that the films submitted had been arranged by two separate organisations, namely Short Film Festival and the Essex

Film Collective. They were also informed that Mr Offord had told the Licensing Office that some of the content in the films included 'Strong Adult' themes – for example nudity, swearing, self-harm, drug misuse and murder.

Michael Cook confirmed to the Sub-Committee that a Licensing Officer had viewed all of the films and had provided recommendations that were shown in Appendix C, to the aforementioned report.

Following Michael Cook's introduction of the report the Sub-Committee moved on to questions for the licence holder (Mr Offord).

Questions from Sub-Committee	Answer
Are these all going to be put on at the same time?	Mr Offord – The plan is to have 4 separate playlists all screened on the same day. So we would have a Harwich Shorts playlist and then 3 separate playlists for the Essex Film Collective. They would then be followed by questions and answers, and an opportunity for discussions around the films with the film makers.
Will those films be monitored as some are for different age groups to the others?	Mr Offord – The plan is to set the playlist to the highest rating, so if one of the films was rated an 18 the whole playlist would only be accessible to 18 and above.

The Sub-Committee concurred that, after watching the films, it was felt that some of the films were powerful and needed to be shown. They also thanked Michael Offord for creating the film festival, submitting them and attending the meeting.

The Chairman stated for the record that the Sub-Committee was requested, in accordance with the Council's constitution, to recommend to the Assistant Director (Governance and Legal) the screening of an unclassified film subject to Council Officers viewing the film and imposing an appropriate age restriction if any, having regard to the British Board of Film Classification Guidelines. The Chairman then advised that the Sub-Committee could either approve those recommendations or refuse permission to screen an unclassified film. The Chairman finally stated that, whilst there was a general provision for appeals in relation to the conditions placed on Cinema Licences, there was no right of appeal in respect of this decision.

The Chairman then asked the Head of Legal Services (Linda Trembath) if Michael Offord needed to leave the room whilst it discussed the decision. The Head of Legal Services advised that, at this point the Sub-Committee had watched all of the films, they had the guidance contained within the report, so it now just needed to decide if the Sub-Committee agreed with the Officer recommendations that had been put before it.

It was moved by Councillor Coley, seconded by Councillor Casey and RESOLVED that the film classifications, as recommended by the Officers in Appendix C to item A.1 of the Report of the Assistant Director (Governance and Legal), be endorsed.

The meeting was declared closed at 11.39 am

**Chairman** 



#### PREMISES/PERSONAL LICENSING SUB-COMMITTEE

#### **8 AUGUST 2023**

#### REPORT OF ASSISTANT DIRECTOR (GOVERNANCE & LEGAL)

### A.1 TEMPORARY EVENT NOTICE – THE ESPLANADE HOTEL, 27 – 29 MARINE PARADE EAST, CLACTON-ON-SEA: REFERENCE: TENOP/4852/23

#### PURPOSE OF THE REPORT

To provide information in order that the Premises/Personal Licensing Sub-Committee can determine an objection to a Temporary Event Notification (TEN). The objection has been lodged by Essex Police.

#### SUMMARY

A Temporary Event Notification (TEN) has been sent to the Licensing Authority of Tendring District Council in accordance with Section 100 of the Licensing Act 2003 by Mr Paul Cowley.

Essex Police, the Responsible Authority within the Tendring District area have submitted an objection notice with reference to the prevention of crime and disorder, public safety and the prevention of public nuisance.

The Sub-Committee is asked to determine the matter in accordance with the Licensing Act 2003, Tendring District Council Licensing Police and the Home Office Guidance issued under Section 182 Licensing Act 2003, having due regard to the applicant's submissions and objections by the statutory body.

#### SUPPORTING INFORMATION

When carrying out its functions the licensing authority must have regard to the four licensing objectives. The objectives are:

- The prevention of crime and disorder
- Public Safety
- The prevention of public nuisance
- The protection of children from harm

Temporary Event Notices are intended to allow an individual to use premises for one or more licensable activities on an infrequent basis. There is no application process but the premises user must give at least 10 working days notice to the relevant Licensing Authority, the relevant Chief Officer of Police, and Environmental not including the day of the event or the day of receipt of the Notice. There is no provision to attach any terms, conditions, limitations or restrictions to such a Notice.

Mr Cowley (referred to in the Licensing Act as the 'Premises User') has submitted a Temporary Event Notification to cover the sale by retail of alcohol on and off the premises, the provision of regulated entertainment, and the provision of late night refreshment to take place on the 18 August 2023 between the hours of 2100 and 0300 on 19 August 2023.

The address of the event is The Esplanade Hotel, 27 - 29 Marine Parade East, Clacton-on-Sea, Essex CO15 1UU. Within the notification it is requested that the licensable activities for this event will be restricted to the Ground floor Bar & Function Room area of the premises.

The premises currently holds a valid premises licence under the Licensing Act 2003 for the sale of alcohol on and off the premises and performance of recorded music, which would cover Friday 18 August 2023 between the hours of 1000 and 2300 only. The conditions on the premises licence are the standard conditions which have been converted from the old justices licence, none of which can be carried forward onto this Temporary Event Notice.

The notification states the nature of the event as 'Private function involving the consumption of alcohol and playing of recorded music. (House Music Night)' with a maximum number of people at the event of 170.

The premises has held previous Temporary Event Notices.

The notification was submitted electronically to the Licensing Authority on 26 July 2023. Essex Police and Environmental Health were informed on the same say. During the 3 full working day objection period, which expired on 31 July 2023, the Licensing Authority received an objection notice from Essex Police objection.

This hearing must therefore consider the points raised in the Objection Notice and make a determination on the Temporary Event Notice. The Premises User and Essex Police have been invited to attend the hearing and will be given the opportunity to address members.

#### FINANCE, OTHER RESOURCES AND RISK

A decision made by the Sub-Committee is subject to appeal at the Magistrates Court by the premises user or a relevant person.

#### COUNCIL'S ADOPTED GUIDELINES AND LEGISLATION

The Sub-Committee should be aware that a Temporary Event Notice is not an application for the purposes of the Licensing Act 2003. It is a notification that licensable activities are going to take place at a certain venue and at notified times. The limit on numbers at such an event, including audience, staff and performers is 499. The Police and Environmental Health have the right to object if, they are of the opinion that allowing the event to take place would undermine any of the licensing objectives.

The Sub-Committee's decision is whether to issue a counter notice. If a counter notice is issued this means the event cannot take place. A notice with reasons for the decision must also be given.

If the Sub-Committee decide not to issue a counter notice and allow the event to go ahead the premises user and the relevant persons must be given a notice of that decision.

The TEN can be modified (times, layout of venue, licensable activities) but only with the agreement of the premises user and all relevant persons.

The Sub-Committee must determine the matter in accordance with Section 105 Licensing Act

2003.

Section 105 Licensing Act 2003 Section (2) states: The Licensing Authority must -

- a) Hold a hearing to consider the objection notice, unless the premises user (Mr Cowley), the relevant person (Essex Police) who gave the objection notice and the authority agree that a hearing is unnecessary.
- b) Having regard to the objection notice, give the premises user a counter notice under this section if it considers it appropriate for the promotion of the licensing objectives to do so.

Section 105 Licensing Act 2003 Section (3) states:

The Licensing Authority must –

- a) In a case where it decides not to issue a counter notice under this section, give the premises user and each relevant person a notice of the decision.
- b) In any other case –
- i. Give the premises user the counter notice and a notice stating the reasons for its decision and
- ii. Give each relevant person a copy of both of those notices

The Licensing Sub-Committee's decision is whether to issue a counter notice. If a counter notice is issued this means the event cannot take place. A notice with reasons for the decision must also be given.

#### Section 182 Guidance - Police and environmental health intervention

- 7.32 The system of permitted temporary activities gives police and EHAs the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.
- 7.33 If the police or EHA believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. The objection notice must be given within the period of three working days following the day on which they received the TEN.
- 7.34 Where a standard TEN was given, the licensing authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the police, EHA and the premises user may make representations to the licensing authority. Following the hearing, the licensing authority may decide to impose conditions which already apply to an existing premises licence or club premises certificate at the venue, or issue a counter notice to prevent the event going ahead. As noted above, there is no scope for hearings (or appeals) in respect of late TENs and if objections are raised by the police or EHA in relation to a late TEN, the notice be invalid and the ahead. will event will not go
- 7.35 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance even where the statutory limits on numbers are being observed. The premises user who signs the form is legally responsible for ensuring that the numbers present do not exceed the permitted limit at any one time. In cases where there is reason to doubt that the numbers will remain within the permitted limit the premises user should make clear what the nature of the event(s) is and how they will ensure that the

permitted persons limit will not be exceeded. For example, where notices are being given for TENs simultaneously on adjacent plots of land it may be appropriate for door staff to be employed with counters. In each case it is important that licensing authorities and relevant persons can consider whether they believe that the premises user intends to exceed the 499 person limit, or will be unable to control or know whether the limit will be exceeded. Where the planned activities are likely to breach the statutory limits or undermine the licensing objectives, likely to be appropriate for the police or EHA to raise objections.

7.36 However, in most cases, where for example, alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder, (such as at weddings with a cash bar or small social or sporting events) this should not usually give rise to the use of these powers.

#### Section 182 Guidance - Applying conditions to a TEN

7.38 The 2003 Act provides that only the licensing authority can impose conditions to a TEN from the existing conditions on the premises licence or club premises certificate at the venue. The licensing authority can only do so:

- if the police or the EHA have objected to the TEN;
- if that objection has not been withdrawn;
- if there is a licence or certificate in relation to at least a part of the premises in respect of which the TEN is given;
- and if the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.

7.39 This decision is one for the licensing authority alone, regardless of the premises user's views or willingness to accept conditions. The conditions must be notified to the premises user on the form prescribed by regulations.

#### **RECOMMENDATION(S)**

The Licensing Sub-Committee must consider in its own right and on its own merits only as to how it might impact on the four licensing objectives which are the Prevention of Crime and Disorder, the Prevention of Public Nuisance, Public Safety and the Protection of Children from Harm

The Licensing Sub-Committee is therefore asked to determine this notification taking into consideration all of the relevant information that has been submitted as part of this report and at the hearing itself.

The Sub-Committee must consider this report together with any other submissions at the hearing and determine if it:

- a. Accepts the objection and issues a Counter Notice, or,
- b. Rejects the objection, allowing the event to take place.
- c. Rejects the objection, allowing the event to take place, attaching conditions to the grant of a Temporary Event Notice if it is considered appropriate and proportionate to promote the licensing objectives, but only where those conditions already exist on a premises licence or club premises certificate.

#### APPENDICES

Appendix A - Temporary Event Notification
Appendix B - Essex Police Objection
Appendix C - Current Premises Licence and plan

REPORT CONTACT OFFICER(S)		
Name	Michael Cook	
Job Title	Licensing Manager	
Email/Telephone	licensingsection@tendringdc.gov.uk	
	(01255) 686565	



#### **Temporary Event Notice - TENOP/4852/23**

Title – Mr First Name – PAUL Surname - COWLEY

Date of Birth - XX

Place of Birth - XX

National Insurance Number - XX

**Applicant Address** - XX

Email - XX

Premises Address - Esplanade Hotel, 27-29 Marine Parade East

**Premises Name** - Esplanade Hotel

Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises) - Yes

**Licence Number** - 21/00582/PREMTR

If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below - Licensable Activities for this event will be restricted to the Ground floor Bar & Function Room area of the premises.

Nature of Premises - Hotel

**Nature of Event** - Private function involving the consumption of alcohol and playing of recorded music. (House Music Night)

**Licensable Activities** - The sale by retail of alcohol, The provision of regulated entertainment, The provision of late night refreshment

**Regulated Entertainment - Yes** 

Late Refreshments - Yes

Are you giving a late application - No

Dates for the event(s) - The event will commence at 9pm on the 18th August 2023, and run until 3am on the 19th August 2023

Times for the event(s) - The event will commence at 9pm on the 18th August 2023, and run until 3am on the 19th August 2023

Maximum number of people - 170

Where will alcohol be sold – Both on and off the premises

**Provision of relevant entertainment** - Entertainment will be limited to the playing of recorded music throughout the event.

Do you hold a personal licence - Yes

**Temporary Event Notice - TENOP/4852/23** 

**Issuing authority** - Tendring District Council

**Licence number** - TDX

**Date of issue** - 02/03/2022

Have you previously given a temporary event notice in respect of any premises for events falling in

the same calendar year as the event for which you are now giving this temporary event notice -

Yes

Number of Temporary Event Notices in last year - 4

Have you already given a temporary event notice for the same premises in which the event period:

a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in

this notice - No

Has any associate of yours given a temporary event notice for an event in the same calendar year

as the event for which you are now giving a temporary event notice - No

please state the total number of temporary event notices (including the number of late temporary

event notices, if any) your associate(s) have given for events in the same calendar year -

Has any associate of yours already given a temporary event notice for the same premises in which

the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event

period proposed in this notice - No

Has any person with whom you are in business carrying on licensable activities given a temporary

event notice for an event in the same calendar year as the event for which you are now giving a

temporary event notice? - No

please state the total number of temporary event notices (including the number of late temporary

event notices, if any) your business colleague(s) have given for events in the same calendar year -

Has any person with whom you are in business carrying on licensable activities already given a

temporary event notice for the same premises in which the event period: a) ends 24 hours or less

before; or b) begins 24 hours or less after the event period proposed in this notice - No

**Confirm Read** - Yes

Full Name - PAUL COWLEY

**Date** - 26/07/2023



Steven Bennett
Essex Police Licensing Unit
Blyth's Meadow
Braintree
Essex CM7 3DJ

01245 452035

31/07/2023

## POLICE OBJECTION NOTICE To a Temporary Event Notice (TEN) Section 104 Licensing Act 2003

Name of Premises User: Paul Cowley

Address of Premises: Esplanade Hotel, 27 - 29 Marine Parade East.

Clacton on Sea

Date (s) required for TEN(s) 18-19/08/2023

On the 26/07/2023 Essex Police received the above Notice(s).

The Police are satisfied that the allowing the premises to be used in accordance with the notice(s) would undermine one or more of the licensing objectives.

The licensing objective(s) of relevance to this objection notice are the prevention of crime and disorder, public safety and the prevention of public nuisance.

The reasons for being so satisfied are that a large number of members of the public contacted the Police during the staging of a previous event via an earlier TEN application. This event of a similar nature took place on  $21^{\rm st}$  –  $22^{\rm nd}$  July.



#### RESTRICTED

Essex Police computerised storm system shows a number of calls regarding the venue and immediate area, between 23:42 on 01:51.

The separate reports are as follows:

Assault with 3 males attacking one male.

Disturbance with 6 males arguing.

Fight involving around 30 persons, throwing bottles in the street.

Fight with bottles being thrown, large crowd.

Fight, 10-15 people fighting outside of the hotel.

Fight, throwing bottles.

The venue was used by a 3<sup>rd</sup> party, details currently not known by the reporting officer.

The DPS Paul Cowley was spoken to regarding both applications. He was not present at the event. He did not know the details of those persons organising and using the venue. He stated that it had been arranged by the premises owner Stacey Summer. He was unaware that Police had been called and attended the incidents reported. He had no knowledge of any measures that may have been put in place, for example whether there were any door staff, was there a drugs policy, ticketing arrangements etc.

It is unclear who was in control or supervising the event.

The amount of calls and time taken by officers involved in these issues prevented them from attending other incidents in the Clacton area.

A copy of this objection notice has been served upon the premises user (or agent making application), the local Environmental Health Department and the relevant licensing authority.

On receipt of this notice the licensing authority will issue a 'Counter Notice' and provide further information on related procedures.

Yours faithfully

Steven Bennett

Licensing.applications@essex.pnn.police.uk

#### Part B

## **Tendring District Council Premises Licence Summary**

**Premises Licence Number** 

21/00582/PREMTR

#### Part 1 - Premises Details

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

The Esplanade Hotel
27 - 29 Marine Parade East
Clacton-on-Sea
Essex
CO15 1UU

Telephone number 01255 220450

#### Where the licence is time limited the dates

Not Applicable

#### Times the licence authorises the carrying out of licensable activities

#### Sale of Alcohol on and off the premises

Monday to Saturday 10:00 - 23:00 Sunday 12:00 - 22:30

**Performance of Recorded Music** 

Monday to Saturday 10:00 - 23:00 Sunday 12:00 - 22:30

#### **Non Standard Timings**

#### Sale of Alcohol on and off the premises, Performance of Recorded Music

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)

#### **Performance of Recorded Music**

 Good Friday
 12:00 - 22:30

 Christmas Day
 12:00 - 15:00

 Christmas Day
 19:00 - 22:30

#### Sale of Alcohol on and off the premises

 Good Friday
 12:00 - 22:30

 Christmas Day
 12:00 - 15:00

 Christmas Day
 19:00 - 22:30

#### The opening hours of the premises

Opening Hours Not Specified

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

Supplies of alcohol on and off the premises

#### Name, (registered) address of holder of premises licence

Black Hotels LTD 64 Frinton Road Kirby Cross Frinton On Sea Essex CO13 0LE

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

13172727

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mr Paul Cowley

for and on behalf of the Licensing Authority

**Anastasia Simpson**Assistant Director, Partnerships

Dated: 3 December 2021

#### 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.

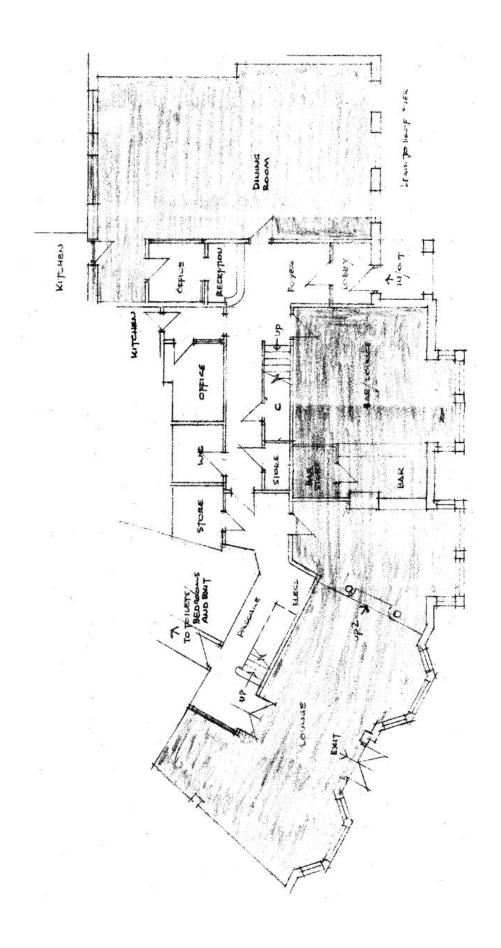
#### Annex 2 – Conditions consistent with the Operating Schedule

- 1 The permitted hours of sale or supply of alcohol do not prohibit
  - (a) 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)
  - (b) Consumption of the alcohol on the premises or the taking of or sale or supply of alcohol to any person residing in the licensed premises
  - (c) The ordering of alcohol to be consumed off the premises or the despatch by the vendor of the alcohol so ordered.
  - (d) The sale of alcohol to a trader or Club for the purposes of the trade or Club.
  - (e) The sale or supply to any Canteen or Mess, being a Canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised Mess of members of her Majesty's Naval, Military or Air Forces.
  - (f) The taking of alcohol from the premises by a person residing there.
  - (g) The supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense or the consumption of alcohol by persons so supplied, or
  - (h) The supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the Licence or for the consumption of liquor so supplied if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.
- 2 Ability to sell/supply alcohol and refreshment to residents and their bona fide guests at any time.

### **Annex 3 – Conditions attached after a hearing by the licensing authority** None

#### Annex 4 - Plans

Plans are attached to this Licence



Page 18