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Premises / Personal Licences Sub-Committee

30 May 2019

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**MINUTES OF THE MEETING OF THE PREMISES / PERSONAL LICENCES SUB-COMMITTEE,  
HELD ON THURSDAY, 30TH MAY, 2019 AT 10.00 AM  
IN THE CONNAUGHT ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors Winfield, J Henderson and Casey
<b>Also Present:</b>	Councillors Knowles and Overton
<b>In Attendance:</b>	Emma King (Licensing Officer), Michael Cook (Licensing Assistant), Linda Trembath (Senior Solicitor (Litigation and Governance) & Deputy Monitoring Officer) and Debbie Bunce (Legal and Governance Administration Officer)

**38. CHAIRMAN FOR THE MEETING**

It was moved by Councillor Henderson, seconded by Councillor Casey and:

**RESOLVED** – That Councillor Winfield be elected Chairman for the meeting.

**39. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were no apologies for absence or substitutions.

**40. MINUTES OF THE LAST MEETING**

The minutes of the meeting of the Premises/Personal Licences Sub-Committee held on 2 April 2019 were approved as a correct record and signed by the Chairman.

**41. DECLARATIONS OF INTEREST**

There were none.

**42. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37**

There were none.

**43. REPORT OF THE CORPORATE DIRECTOR (OPERATIONAL SERVICES) - 5TH AVENUE, 2-4 ORWELL ROAD, CLACTON-ON-SEA, ESSEX CO15 1PR**

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

The Council's Licensing Officer (Emma King) then advised the Sub-Committee of some amendments to the Report in that the premises were incorrectly described as an off licence/convenience store but were in fact a bar and hotel and also that under the Current Licensable Activities the activity for Performance of Live Music had been omitted from the report. There was also an amendment to the Provision of Facilities for

Dancing as this did not include Mondays to Wednesdays. The Licensing Officer 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 5<sup>th</sup> Avenue, 2-4 Orwell Road, Clacton-on-Sea.

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

<b>Monday to Wednesday</b>	<b>10:00 - 00:30</b>
<b>Thursday to Saturday</b>	<b>10:00 - 02:30</b>
<b>Sunday</b>	<b>10:00 - 00:30</b>

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

**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
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**Performance of Recorded Music**

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

**Performance of Live Music**

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

**Late Night Refreshment**

Monday to Sunday	23:00 - 02:00
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Section 4.0 set out the proposed licensable activities (variation application) as

**4.1 Performance of Live Music – outside**

Saturday and Sunday – 13:00 to 20:00

And

**4.2 Performance of Recorded Music – outside**

Saturday and Sunday – 13:00 to 20:00 hours

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 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.

The Council's Planning Authority had been consulted and no comments had been received.

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 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
- (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, Ms Carol Pickett to give representations to the Sub-Committee.

Ms Pickett stated that the request to play music/karaoke on the outside seating area would be weather permitting. Ms Pickett was asked whether there would be excessive noise from customers leaving the premises, considering that the Care Home was opposite the premises. Ms Pickett said that as the premises were already operating then there would only be the same level of noise as at present and that people already sit in the outside seating area.

Ms Pickett was asked how big the outside seating area was and she stated that it was big enough to fit approximately 30 people. She stated that although her current licence allowed her to remain open until 2.00 a.m. she was never open beyond 1.00 a.m. even on a Saturday.

She said that other pubs in Clacton have outside karaoke. She wants to work with the community and not cause any problems. The outside music would be dependent upon the weather and so would probably not be many times a year. The outside music would be between the hours of 1.00 p.m. and 8.00 p.m. She stated that one public house nearby has outside speakers.

The Licensing Officer was asked to confirm what licences premises in the vicinity had. The Licensing Officer confirmed that Bentleys had outside music at the following times:-

#### **Performance of Live Music**

Friday and Saturday	19:00 - 00:00
Sunday	15:00 – 22:00

**Performance of Recorded Music**

Monday to Thursday	12:00 - 00:00
Friday and Saturday	12:00 - 02:30
Sunday	12:00 – 22:00

The Kassaba did not have outside music and the times were:

**Performance of Live Music**

Monday to Wednesday	11:00 - 01:00
Thursday to Saturday	11:00 - 02:00
Sunday	11:00 - 01:00

**Performance of Recorded Music**

Monday to Wednesday	11:00 - 01:00
Thursday to Saturday	11:00 - 02:00
Sunday	11:00 – 01:00

Ms Pickett stated that all she wanted was to be able to provide music outside during the Summer months and she confirmed that she would not be having music outdoors during the Winter months. Her doors were not open all the time at present.

The Chairman invited the Objector, Mr Milliken to give representations to the Sub-Committee.

Mr Milliken then addressed the Sub-Committee. He explained that he was the Chief Operating Officer for the Care Home and was here today as the Manager of the Care Home was currently on holiday. He confirmed that he had worked with the Manager to produce the objection letter.

He explained that he visited the home once or twice a week, and had done so over the last 2 years. He said that what the applicant had described was slightly different to his understanding. He stated that he had seen the patio doors at the premises open and there was a speaker on a stand facing outside. The music going outside was quite loud. He had visited the care home at 7.30 p.m. and the music was loud at that time.

He said that he had only seen 10-15 people in the outside seating area when he visited.

The Sub-Committee asked Mr Milliken whether the care home was affected by music from Bentleys which was around the corner and he stated that it was not.

Mr Milliken explained that the home is a nursing home accommodating 48 residents, although at the present time there were 42. Most residents were placed there by the County Council. He had noticed over the last couple of years that 60-70% of residents are at the end of life stage, and that the home was almost a hospice. He said that he was concerned that in their final days the residents had the additional noise of loud music and he said that was very sad.

Mr Milliken explained that he understood that 5<sup>th</sup> Avenue were in competition with other businesses but that the care home were in the same position. Residents families do have a choice where their relatives go and if when choosing a home they hear loud music it could damage their reputation.

Mr Milliken said that he welcomed the Noise Management Plan but felt that it lacked detail and wanted to know how noise would be managed and he would like to know more about the plan.

Ms Pickett said that visitors to the care home do visit 5<sup>th</sup> Avenue.

Mr Milliken was asked how long the care home had been open and he said that it has been run by the current owners for two years who took it on after the home went bust but that it had been there for many years.

Mr Milliken was asked whether the residents went out much and he said that at the end of life stage they did not go out very often and if they did their families usually took them out.

Mr Milliken was asked whether the care home had a garden and he said that they only had an outside space at the front of the property, which was not directly opposite the premises.

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.

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

“Application No. 19/00218/PREMVA – Application for the Variation of a Premises Licence in respect of 5<sup>th</sup> Avenue, 2-4 Orwell 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 residents, 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, subject to the imposition of certain conditions.
3. In addition to any Mandatory Conditions and any conditions that are consistent with the Operating Schedule the following conditions will apply in order to satisfy the relevant Licensing Objective.

In respect of the Licensing Objective for The Prevention of Crime and Disorder, that any drinking or other outside crockery used or taken outside to be plastic in order to minimise the risk of harm to anyone.

In respect of the Licensing Objective for The Prevention of Public Nuisance, that live or recorded music outside the building be permitted between:

1 May and 30 September annually and the hours of 1400 to 2000 hours on Saturdays and Sundays only and as asked for.

The Committee have noted the concerns of the objector in relation to noise and that the police made representations although not upheld by the Licensing Officer because the Applicant submitted a Noise Management Plan to the Council. The Committee would like the Noise Management Plan to be reviewed by the Council's Environmental Health (Noise Specialist Officer), together with the Applicant and the Licensing Officer to make the terms clear for all parties and enable monitoring and enforcement.

Such review and finalisation of the Noise Management Plan to be completed by the end of July 2019.

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, 30 May 2019 and will be confirmed in writing to all parties."

Please ensure that during office hours any complaints are made to the Environmental Department, and outside of office hours to Careline.

The meeting was declared closed at 11.22 am

**Chairman**