

Supplementary Papers for Licensing Sub-Committee

Date: Wednesday, 12 November 2025



7. **The Beach House, Mudeford Beach Sandbank, Bournemouth, BH6 4EW**

3 - 16

Please find enclosed written submissions from Gerald Gouriet, KC, on behalf of The Beach House Café.

Published: 07 November 2025

This page is intentionally left blank

**Re: An Application for the Review of a Premises Licence
The Beach House Café, Mudeford Sandbank, Bournemouth BH6 4EW
Licensing Act 2003**

Written Submissions on behalf of the Beach House Café

Background

Mudeford Sandbank

1. The Beach House Café is situated in a popular recreational destination, Mudeford Sandbank. In the peak Summer months, the Spit serves many thousand visitors daily; arriving by ferry or ‘Land Train’ from Hengistbury Head; by kayak from Mudeford Quay or Christchurch Quay; or on foot or by bicycle.
2. Many visitors to the Sandbank bring their own food and drink, for consumption there throughout the day. Others purchase supplies at the Beach House Café. Some day-trippers play music, live and recorded.

The Beach Huts

3. There are over 400 beach huts on the Sandbank. As the Sub-Committee will be aware, the hut-owners do not own the land on which the huts are placed but lease it from BCP. Many hut-owners let their huts out to holiday makers in the summer, for weekends or weeks at a time. The majority of huts do not have toilets or running water. Owners/renters are permitted to sleep overnight in the huts between 1 March and 31 October, subject to any specific regulations in the relevant BCP licence.
4. Some hut-owners have placed benches on the land in front of their huts. Their right to do so is unclear, and there is sometimes friction between visitors and hut-owners when the visitors sit on these benches.

The application for review

5. The Beach House is extremely popular, and its continued operation is supported by beach-hut owners, renters, and the wider public who visit the Sandbank in the Summer. Some hut owners, however, do not like the current operation. They object to what they describe as “*uncontrolled public drinking*” and the “*exposure of children*” to “*alcohol related activities*”. They say that the volume at which music is played is a public nuisance. Some, it seems, would even like to dislodge the current owner and take over the café for themselves: (see, for example, Support Rep #5).

6. It is respectfully submitted that Mudeford Sandbank is not in the private ownership of hut-owners. It is “*a unique and beautiful sandspit*”¹ open to the public at large, who come in their thousands to enjoy it.
7. The central question in this review is not whether the few who are demanding a heavily conditioned premises licence should have things *their* way, or whether the more diverse and numerous supporters of the Beach House, who wish things to remain as they are, should have things *their* way. The central question for the Licensing Sub-Committee is “*what is to be regarded as reasonably acceptable in this particular location*”: see the remarks of Toulson LJ in *Hope & Glory Public House v Westminster Magistrates’ Court*².
8. It is instructive to cite the well-known passage in Toulson LJ’s judgment in full:

“Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on. Sometimes a licensing decision may involve narrower questions, such as whether noise, noxious smells or litter coming from premises amount to a public nuisance. Although such questions are in a sense question of fact, they are not questions of the “heads or tails” variety. They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location. In any case, deciding what (if any) conditions should be attached to a licence as necessary and proportionate to the promotion of the statutory licensing objectives is essentially a matter of judgment rather than a matter of pure fact.”
9. In considering what is “reasonably acceptable in the particular location”, it should perhaps be remembered that the Sandbank is not a densely residential area in an urban location. It is an extremely popular tourist destination by the sea.

Legal principles

10. A licensing authority must carry out its licensing functions with a view to promoting the licensing objectives: section 4(1) Licensing Act 2003 (“the 2003 Act”).
11. The licensing objectives are given by section 4, and are –

¹ “Visit Dorset”, 2025.

² [2011] EWCA Civ 31

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

12. On an application for the review of a premises licence, section 52(3) of the 2003 Act requires a licensing authority -

“having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers for the promotion of the licensing objectives.”

13. Section 52(4) gives those steps as –

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence.

14. Taking each of the licensing objectives in turn –

The prevention of crime and disorder

15. Government Guidance (section 182 of the 2003 Act) states at paragraph 9.12 –

Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority’s main source of advice in relation to a particular licensing objective...The police should usually therefore be the licensing authority’s main source of advice on matters relating to the promotion of the crime and disorder licensing objective.

16. The police were consulted on this review and have made no representations.

17. It is respectfully submitted that the operation of the Beach House falls far short of what may fairly be described as ‘undermining the crime-prevention licensing objective’. It will be for the Sub-Committee to decide what steps, if any, need to be taken with regard to the few reported isolated incidents occurring away from the licensed premises.

Public Safety

18. There is no evidence whatsoever to support the proposition that the Beach House undermines the ‘Public Safety’ licensing objective. If there were, one would expect to see a representation to that effect from one or more of the responsible authorities.

The prevention of public nuisance

19. The response to this review from Environmental Health is significant. On only 4 days in the last 5 years has the Department received complaints about excessive noise from the Beach House Café. The most recent of them (19 August 2025) concerned a birthday party given by one of the hut-owners, and it resulted in five separate complaints from other hut-owners. Additional detail is given by Kim Slater in his witness statement. The others were isolated (single) complaints in June 2025, August 2023 and June 2021.
20. The EHO response to this review concludes that on investigation of these complaints, “*no nuisance was substantiated*”.
21. The Sub-committee may wish to hesitate before accepting that complained-of nuisances other than noise, for example littering, are necessarily attributable to the operation of The Beach House.
22. The bar for establishing public nuisance is set high: what may be annoying to some, but not to others, is unlikely to be a public nuisance.

The protection of children from harm

23. There is no evidence of the supply of alcohol to underage children.
24. The concern that “*Alcohol consumption now occurs openly outside the demised premises, making it unavoidable for children in nearby beach huts and on the beach to be exposed to such activity*” is disingenuous. Children throughout the UK are accustomed to see adults drinking alcohol, and they have been allowed in public houses since 1995.
25. Section 145 of the 2003 Act makes it an offence to allow unaccompanied children under 16 to be on premises exclusively or primarily used for the supply of alcohol for consumption on the premises. There is no evidence whatsoever that the Beach House falls foul of this prohibition. What is more, the supposed concern is about what children see *outside* the Beach House – where visitors who have brought their own provisions are entitled to (and do) consume alcoholic drinks along the stretch of the Spit.
26. No responsible authority is concerned that the operation of the Beach House undermines the ‘protection of children from harm’ licensing objective. There is no evidential foundation for the proposition that it does.

Planning

27. In Forster v The Secretary of State for Communities and Local Government [2016] EWCA Civ 609, Laws LJ said that “*while a licensing committee is not bound to follow a planning decision-maker's conclusion, nor vice versa, each will and should have regard to the other where both make decisions in the same context.*”

28. It is right, therefore, that the Sub-Committee should have regard to the noise management condition recommended in the recent planning decision (October 25) giving permission for the proposed re-build of the premises.
29. Whilst it is not accepted, for the reasons summarised in paragraphs 19-22 above, that the operation of the Beach House Café has been the source of ‘public nuisance’ properly so defined, it *is* accepted that, having regard to the representations on this review, it would be appropriate for the promotion of the public nuisance licensing objective to ensure confidence in the Café not *becoming* so. Indeed, as Kim Slater touched on in his witness statement, it would be as much in the interests of the café as the hut-owners that a suitably worded licence condition set a benchmark for an acceptable level of recorded or live music, so that both sides in this dispute know where they stand.
30. There is a wealth of authority that a regulator should not abdicate its statutory responsibilities to another regulator, even if both are departments of the same council: see, for example, Norman v Secretary of State for Housing, Communities and Local Government [2018] EWHC 2910. For that reason, a noise management condition on a premises licence should be under the supervision of the licensing authority; just as a noise management condition in a planning permission should be under the supervision of the planning authority. Accordingly, counsel for the Beach House suggests the following licence condition based on, but by not slave to, the planning condition—

The premises shall not be open to the public after 17:00 on any day of the week until a Noise Management Plan (NMP) specifically addressing entertainment and people generated noise shall be submitted to and approved in writing by the Council’s Environmental Department and Licensing Authority. The NMP shall be reviewed and updated periodically, particularly in response to complaints or changes in operations. The approved NMP shall be implemented in full prior to the premises opening later than 17:00 and shall be adhered to at all times thereafter.

31. The underlying reasoning in the drafting of that condition is threefold:
- The approval of the NMP, and thus the promotion of the licensing objectives, remains (as it should) with the licensing authority.
 - A realistic view should be taken of trading in the winter months -
 - In the winter, the Beach House Café is only open in daylight hours.
 - There is no good reason why the café should be subject to a NMP before sunset, when its principal activity on a winter’s day is the provision of refreshment for dog-walkers and joggers.
 - The proposed condition also acknowledges the limited use of the beach huts before 1 March.
 - It is hoped (and expected) that a NMP will be agreed before the Spring. If it is not agreed, then the proposed condition will restrict the opening of the café to the winter hours as specified, unless varied by the licensing authority.

Conclusions

32. The way in which the Beach House operates has evolved over time. Live and recorded music is now played, and there are daytime and early evening special events. It is clear from the many photographs and video-clips that have been produced that the music and events are much-enjoyed by the café's customers. There is no sign in the photos/videos of anti-social behaviour or disorder. Well-behaved children can be seen in adult company.
33. A recurring theme in the representations on this review is that the Café should be required to revert to its past operational style, as a restaurant with no music. That is quintessentially a planning, rather than licensing, consideration.
34. The applicants for review have produced a schedule of highly restrictive conditions which they ask to be imposed on the licence. These are not accepted. The majority are disproportionate and inappropriate – because they are wholly unnecessary – for the promotion of the licensing objectives. The Café's detailed responses to the proposed conditions are attached as an annex to these submissions.

Gerald Gouriet KC

Francis Taylor Building
Inner Temple

Thursday, 6 November 2025

Annex to the Beach House Café Written Submissions

Hours

1. The authorised hours for the sale or supply of alcohol shall be 10:00 to 21:30hrs (all week).

This is not agreed. The terminal hour of 21:30 is arbitrary. Furthermore, there is no cogent or sufficient evidence that the sale of alcohol after 21:30 undermines the licensing objectives.

2. The premises shall be closed and customers off the premises by 22:00hrs (all week).

The planning permission for the rebuild (23 October 2025) provides that the premises may remain open to the public until 23:00 on any day of the week.

As is mentioned in the REPORT before the Sub-Committee, it is generally recognised that alignment between planning and licensing conditions is desirable.

3. Late Night Refreshment (i.e. the provision of hot food and hot drink between 23:00 – 05:00hrs) shall be removed from the premises licence.

The Beach House does not take advantage of its authority under the premises licence to provide Late Night Refreshment. In the absence of evidenced complaints about such provision, however, it is doubtful whether the non-use of a licensable activity is sufficient reason to remove it from the licence.

4. Non-standard timings for licensable activities shall be removed from the premises licence.

No reason has been given why the Beach House should not take advantage the non-standard timings (Christmas, New Year and Easter, etc.) enjoyed by customers of licensed premises throughout the UK.

Regulated Entertainment: removal of exemption permitting live or recorded music.

5. In accordance with section 177A and paragraph 12A(2)(b) of Schedule 1 to the Licensing Act 2003, the performance of live music, or the playing of recorded music, is not permitted to take place on the premises or within its immediate vicinity if provided or permitted by the licence holder.

This condition proposes an absolute ban on the playing of any kind of music, live or recorded. It would be a draconian and disproportionate restriction on the statutory entitlement of all premises licensed to supply alcohol for consumption on the premises, to play live and record music up until 23:00 hours: see The Live Music Act 2012.

If a Noise Management Plan is imposed by condition, it is difficult to see why there should be an additional – and potentially contradictory – restriction on the playing of live or recorded music.

Removal of old embedded conditions

6. Conditions 1.8 to 1.20 of Annex 2 on the premises licence shall be removed from the licence.

These conditions were imposed on the conversion of the previous 1964 Act licence. They reflect entitlements under the pre-converted licence. Many of them have on-going relevance: see, for example, conditions 1.10 (off sales); 1.15 (payment at time of purchase); 1.19 (prevention of harm to children).

The removal of these conditions is presented as ‘modernising’ the licence and ‘making it more fit for purpose’. Whether that somewhat academic pursuit is the genuine concern of the applicants or their lawyers, it is a distraction. It formed no part of the representations made to the Licensing Authority and has nothing to do with the issues on this appeal.

Alcohol ancillary to substantial table meal

7. The supply of alcohol at the premises shall only be to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal. [*The condition then gives an agreed definition of ‘substantial table meal’*]

The explanatory note to this proposed condition is misconceived and wrong. It incorrectly states both the law and the entitlement under the current licence.

(1) Entitlement under the current licence

The ‘explanatory note’ asserts that “*this premises has never been permitted to sell alcohol unless it is ancillary to a substantial meal under its premises licence*”. That assertion is simply wrong. Such a restriction is nowhere to be found in the current licence, nor (so far as counsel has been able to delve) on any of the licences that preceded it. If the alleged prohibition is the understanding of the applicants, it is a bad error that perhaps goes some way to explaining the position they have taken on this review.

(2) The Licensing Act 1964

The applicants do not understand what a “Supper Hours” Certificate under the 1964 Act was. It allowed (but did not require) a licensee to extend the ‘permitted hours’ by one hour, in a part of the licensed premises that was “usually set apart” for the service of people taking table meals at which alcohol was supplied as an ancillary to their meal.

Supper Hours Certificates were granted by Licensing Justices to all manner of licensed premises - wine bars, pubs, restaurants - so long as they were adapted and genuinely used for the purpose of habitually (but certainly not exclusively) providing substantial meals to which the sale of alcohol was ancillary.

The applicant is wrong to invite an inference that the Beach House Café's grant of a Supper Hours Certificate under the 1964 Act (and/or the companion 'embedded' licence condition that became condition 1.20 on conversion of the old licence) mean that the premises were authorised or intended only operate as a restaurant. The premises were not so restricted.

Permitted Hours and Supper Hours Certificates were abolished by the 2003 Act.

8. No customer is permitted to consume alcohol whilst standing.

Without trivialising these submissions, I would simply ask - Why? To what identified and evidenced problem is this said to be a proportionate response?

Off sales of alcohol and takeaways

9. Alcohol off-sales are not permitted and shall be removed from the licence.

Such a prohibition would be an unjustified and substantial loss of amenity to the thousands of visitors to the Mudeford Sandbank – as it would to the hut-owners themselves, many (if not most) of whom do not support this review.

Not only does the licence under review permit off-sales, but there is a separate, extant "Off-Licence" referred to in the Report to the Sub-Committee.

The applicants may not like to see drinkers "*congregating outside the premises*", but the issue on this review is the promotion of the licensing objectives. The photographic and video evidence presented does not provide cogent evidence of the licensing objectives being undermined by people drinking outside the Beach house Café.

10. The provision of food and drink for consumption off the premises (i.e. takeaways) is only permitted where all of the following circumstances exist:

- a. The provision of takeaway of food and drink is strictly ancillary to the principal use of the premises as a restaurant.
- b. Where the sale or supply is via the external serving hatch within the licensed premises, and
- c. Is restricted to the sale of groceries, take away non-alcoholic drinks, ice cream, and hot takeaway pizzas for consumption off the premises. For the avoidance of doubt, no alcohol may be provided for consumption off the premises.

The demands of the applicants are becoming increasingly prescriptive, to the point of absurdity. The promotion of the licensing objectives does not require such detailed control over what may be sold by the Beach House, or from where. This condition is resisted in its entirety.

Noise Management Plan

11. Prior to the provision of licensable activities at the premises, a Noise Management Plan (NMP) specifically addressing entertainment by way of live or recorded music (if permitted) and people generated noise shall be submitted to and approved in writing to the Licensing Authority and Environmental Health officers by the licence holder. The NMP shall be reviewed and updated periodically, particularly in response to complaints or changes in operations. The licence holder must operate in accordance with the NMP.

The Beach House proposes a Noise Management Plan, worded slightly differently. See paragraphs 30 & 31 of counsel's Written Submissions. Representations will doubtless be made at the hearing on 12 Novembers as to the appropriate wording of any NMP condition that the Sub-Committee is minded to impose.

12. The NMP shall include, but not be limited to, the following mitigation measures:

- a. A noise limiter must be fitted to the musical amplification system and maintained in accordance with the following criteria: (a) the limiter shall be set at a level determined by and to the satisfaction of an authorised Environmental Health Officer, so as to ensure that no noise nuisance is caused to local residents or businesses.
- b. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of the authorised Environmental Health Officer and access shall only be by persons authorised by the Premises Licence holder.
- c. The limiter shall not be altered without prior written agreement from the Environmental Health Team.
- d. No alteration or modification to any existing sound system(s) shall be affected without prior knowledge of the Environmental Health Consultation Team.
- e. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
- f. Music must only be played at low level background level and only within the café area to minimise noise break-out to surrounding beach huts where possible.
- g. Events that, by virtue of a temporary event notice, include live or recorded music above background levels shall be limited to up to one event per week.
- h. The duration of music entertainment shall be no longer than 3hrs with a 15-30 minute break.
- i. Amplified music is only permitted between 10.00 and 21.00hrs.
- j. Loud speakers shall be directed away from residential beach hut areas.
- k. A documented complaints procedure.
- l. All relevant staff shall be trained in complying with the NMP and records of such training to be retained at the premises.

- m. All events where regulated entertainment will take place shall be notified in writing to residents of the beach huts at least 14 days before the event.
- n. Beach hut users shall be provided with a contact telephone number for a person responsible for the event who is on site should they need to raise any concerns.
- o. All events including regulated entertainment shall be monitored by the licence holder to ensure no public nuisance arises from music or customer noise. Records shall be kept of monitoring carried out throughout events and corrective action taken.

This review hearing is not the appropriate forum for dictating the terms of the proposed NMP. The Beach House Café does not disagree in principle with many, if not most, of the above mitigation measures; but fixing them in stone as licence conditions before the NMP has even been discussed, is premature.

In any event, an NMP agreed with the Environmental Health Department will still require the approval of the licensing authority.

The licence condition offered by the Café, namely that the Beach House may not open to the public after 17:00 until a NMP has been agreed and approved, gives ample protection to the hut-owners.

- 13. The main entrance doors and any large openings or canopies, which can be closed, shall be kept closed whenever music is being played and after 19:00 each day, except for normal access and egress.

The current entrance to the Beach House is a canvass flap. Doubtless any approved NMP will have regard to that and to the potential for escaping noise when customers enter or leave.

This condition is difficult to reconcile with the applicant's request that no music be played at all.

- 14. Music emanating from the premises when measured at 1 metre from the nearest noise sensitive façade (Beach Huts to the rear of the proposed café) shall not result in any increase to the background noise level LA90.

That is pre-eminently a matter for the Noise Management Plan.

- 15. The premises licence holder shall ensure that any customers outside the premises, e.g. smoking, do so in an orderly manner and are properly supervised by staff or door supervisors so as to ensure that there is no public nuisance or obstruction of the public highway.

A 'best endeavours' condition is not resisted, but the employment of door supervisors would be disproportionate. It is important that the Beach House should not be held responsible for the behaviour of members of the public who are not, nor have been, its customers.

16. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

This, again, is an issue for the Noise Management Plan. A duplication of requirements in that plan by way of licence conditions is contrary to Home Office Guidance.

Waste, Deliveries & Litter

17. Deliveries to the premises shall only take place between 08.00 and 10.00 hours.

Agreed

18. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 21.00 and 08.00 hours on the following day.

This, again, is over-prescriptive. It is agreed that bottle-disposal is noisy and should be prohibited between 21:00 and 08:00. But the words “waste or recyclable materials” are far too wide. Staff should be able to dispose of a black bin-liner with no bottles in it without causing any nuisance.

19. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area outside the premises.

The Café is happy to agree to placing two bins outside its curtilage and conducting regular litter-picking for an 80m radius (as per the new planning condition).

Age verification, personal licence holder, security & records

20. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport, proof of age card with the PASS Hologram or digital ID of a form approved by law.

This is already in place.

21. There shall be a personal licence holder on duty on the premises at all times when the premises is authorised to sell alcohol.

Agreed

22. The need for door supervisors at the premises shall be subject of a written risk assessment completed by a competent person. This risk assessment shall be retained on the Premises and made immediately available to Police or an authorised officer of the Council upon request. A competent person shall include the Premises Licence Holder, the DPS and a SIA registered approved contractor.

Agreed

23. All written documentation, policies, monitoring, risk assessments and other records referenced in this licence shall be kept at the premises for at least 12 months and made available for inspection on the request of an authorised officer of the Council.

Agreed

This page is intentionally left blank