

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