

East Suffolk Council Riverside 4 Canning Road, Lowestoft, NR33 0EQ

Re Licence no 040984 for Alba Chiara Restaurant, 91-93 Undercliff Road West, Felixstowe, Suffolk, IP11 2AF from 17/02/2020 to indefinite

**Application for the review of a premises licence or club premises certificate under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I Sonia Jackson

*(Insert name of applicant)*

**apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)**

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Alba Chiara 91 – 93 Undercliff Road West	
<b>Post town</b> Felixstowe	<b>Post code (if known)</b> IP11 2AF

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Stefan Mania (Sirmani Foods Ltd)
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<b>Number of premises licence or club premises certificate (if known)</b> 040984
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**Part 2 - Applicant details**

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below) ✓

2) a responsible authority (please complete (C) below)



**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address  N/A
Telephone number (if any)
E-mail address (optional)

**This application to review relates to the following licensing objective(s)**

Please tick one or more boxes ✓

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance ✓
- 4) the protection of children from harm

**Please state the ground(s) for review** (please read guidance note 2)

Prevention of Public Nuisance

We kindly request a review of Alba Chiara's licence to stop the playing of music outside on the restaurant's terrace, which is directly below our bedroom, lounge and kitchen windows and balcony.

We live on the first floor above Alba Chiara restaurant. All our windows apart from our 2<sup>nd</sup> bedroom are directly above the restaurant's outside terrace.

The outdoor music is an annoying noise nuisance causing us disturbance, stress and affecting our well-being. At night, we are having to close our bedroom windows, which is unbearable in the hot weather, and wear ear plugs. On occasions when we've needed to get a good night's sleep due to early wake up calls or illness, we have had to sleep in our small spare room or elsewhere away from our home.

We are also suffering due to smoke, cigarette and other substances, permeating into our bedrooms, kitchen and living areas and request that the terrace is a non-smoking area. The restaurant's umbrellas reduce the smell in our apartment but there are diners and staff smoking outside of the covered area (see photo attached) and of course the sea front breeze or lack of it on occasions means that smoke smells still come into our home.

Alba Chiara have broken a condition of the licence since 2020, which states: "The licence holder shall display clear and legible notices requesting patrons to respect nearby residents and leave the premises quietly." There have never been any such notices displayed in the restaurant or on the terrace and I'm sure most tourists do not realise or consider that this is a residential building.

There is also the noise nuisance caused by staff clearing away and moving the tables and chairs from the terrace at closing time. And often, after closing, some of the staff gather right below our bedroom window smoking, chatting, shouting and laughing. This can be as late as midnight or beyond.

The licensee clearly does not apply a high standard of control to minimise the potential for any public nuisance that arises from the operation of his premises which are situated directly below our residential property.

The reason we did not object to the original licence application in February 2020 was that we cannot remember reading on the public notice that the licence would include the playing of outdoor music otherwise we would have strongly objected.

Until recently, we have enjoyed an amicable and supportive relationship with Stefan Mania and his staff, but this has soured since he has, in our opinion been very inconsiderate, confrontational and unapproachable in reaching a solution. Stefan originally spoke to us about playing outdoor music and when we voiced our concerns (opposed music being played), he promised to turn off the music at 9.30pm. Although we were not entirely happy about this, we agreed to be supportive to his new business especially as he took over the premises one month before Covid lockdown. It started to become a noise nuisance when staff forgot to turn off the music but when we telephoned them or popped down, they apologised and immediately turned it off. But recently, Stefan says he has a new license allowing him to play music until 11pm, and seems to be determined to do just that, even playing music outdoors after the tables etc are cleared away.

We appreciate that Stefan is allowed to play outdoor music until 11pm in accordance with his licence, hence we are requesting a formal review, as we are beyond the point of sorting a solution with him personally.

**Please provide as much information as possible to support the application** (please read guidance note 3)

The licensable activities taking place at Alba Chiara are having a detrimental and direct negative impact on us, the tenants, living directly above their terrace.

The outdoor music is usually turned on from around 10:30am (although they don't open until 12) and is being played all day right up until around 11pm, slightly earlier midweek. It has become an unbearable noise nuisance causing us much stress, annoyance and aggravation and detrimental to our health.

We began reporting it to the East Suffolk Council on 14 June and have reported it almost daily since this date, as instructed by the Environmental Health Technical Support Officers, who also advise us to keep a log which we are doing so. The only days we have no noise or smoke nuisance is on Mondays, as the restaurant is closed. We have also taken photos and videos in addition to those attached which we can make available if you wish, along with the log.

Stefan Mania leases the premises from Coltway Properties. His lease conditions state: "The tenant shall not allow any noise, music, flashing lights, fumes or smells to emanate from the property so as to cause a nuisance or annoyance to any other tenants or occupiers of the building or any neighbouring properties."

We know East Suffolk Council has not banned smoking on pavement cafes, but the fact that Alba Chiara's terrace is directly below our windows, we ask you to consider the damaging affect this is having on our health and enjoyment of our home.

We strongly believe that our request to ban outdoor music and smoking on Alba Chiara's terrace, will have no detrimental impact on the success of the business or their turnover.

We are not aware of any other restaurant in Felixstowe playing music outdoors. Neither do we feel we are being unreasonable. The Alex, just a few doors down the road, are not allowed to play outdoor music even though they do not have anyone living above their premises.

It is not our intention to undermine the success of Alba Chiara and we strongly believe in supporting tourism and the success of local businesses and employment.

We knew and accepted that when we bought our property, there would be noise associated to living on the seafront and above a restaurant. But what we did not expect and do not feel is acceptable, is the noise associated to playing music outdoors and having passive smoke issues.

Please tick ✓ yes

Have you made an application for review relating to the premises before **NO**  **X**

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

**If you have made representations before relating to the premises please state what they were and when you made them**

N/A

Please tick ✓

yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ✓
- I understand that if I do not comply with the above requirements my application will be rejected ✓

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**Part 3 – Signatures** (please read guidance note 4)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature  
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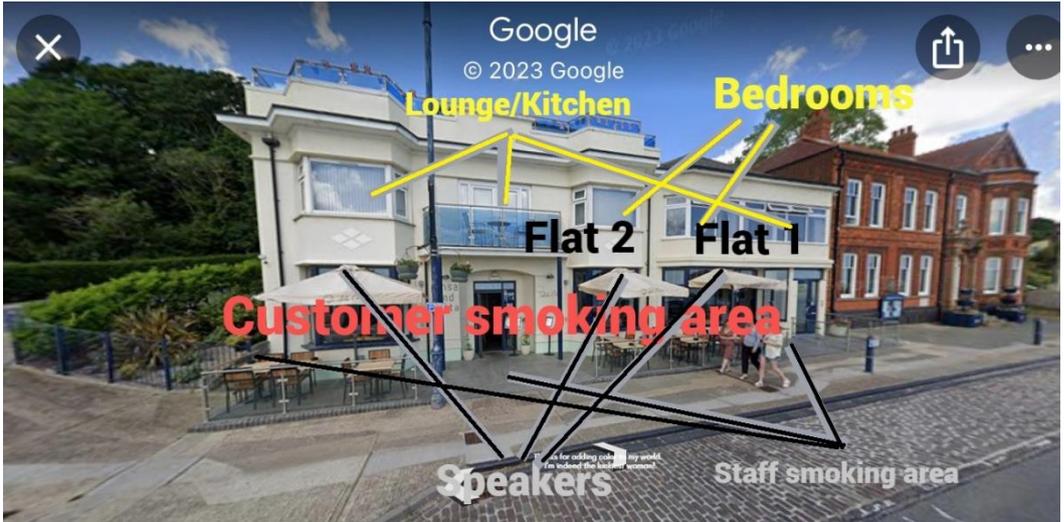
Date  
.....

Capacity  
.....

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 6)	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

**Notes for Guidance**

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.



91-95 Undercliff Road West, Felixstowe IP11 2AF. Photo shows position of Flats 1 & 2 windows directly above Alba Chiara's outside dining and smoking terrace where music is being played from loudspeakers located in the umbrellas.

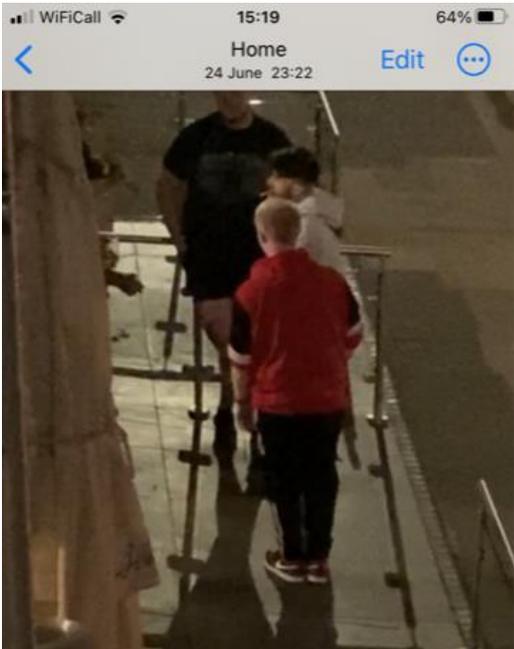


Photo taken at 11.22pm showing staff smoking, drinking and talking under our bedroom windows (Other videos and photos available). Staff were aware that we were filming.



Photo showing diners smoking under our windows but not seated under an umbrella meaning smoke permeates into our flat