



Licensing Sub-Committee

Members are invited to a **Meeting of the Licensing Sub-Committee** to be held in the Deben Conference Room, East Suffolk House, Melton on **Thursday, 24 August 2023 at 10:00 AM**

This meeting will be broadcast to the public via the East Suffolk YouTube Channel at <https://youtube.com/live/wXBAtwB6298?feature=share>

Members:

Councillor Deborah Dean, Councillor Colin Hedgley, Councillor Lee Reeves, Councillor Jan Candy (Reserve)

An Agenda is set out below.

Part One – Open to the Public

Pages

- 1 Election of a Chair**
To elect a Chair for the Licensing Sub-Committee.
- 2 Apologies for Absence**
To receive apologies for absence, if any.
- 3 Declarations of Interest**
Members and Officers are invited to make any declarations of interests, and the nature of that interest, that they may have in relation to items on the Agenda and are also reminded to make any declarations at any stage during the Meeting if it becomes apparent that this may be required when a particular item or issue is considered.
- 4 Declarations of Lobbying and Responses to Lobbying**
To receive any Declarations of Lobbying in respect of any item on the agenda and also declarations of any response to that lobbying.
- 5 Review - Premises Licence ES/1628** **1 - 28**
Report of the Licensing Officer

Part Two – Exempt/Confidential

Pages

There are no Exempt or Confidential items for this Agenda.

Close



Chris Bally, Chief Executive

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LICENSING SUB-COMMITTEE

Thursday 24 August 2023

APPLICATION DETAILS

Type:	Review – Premises Licence
Name of Applicant:	Mrs Sonia Jackson
Address of Applicant:	Flat 2, 95 Undercliff Road West, Felixstowe IP11 2AF
Type of applicant:	Other person
Name of Premises:	Alba Chiara
Address of premises:	91-93 Undercliff Road West, Felixstowe IP11 2AF
Description of Premises:	Restaurant

EXECUTIVE SUMMARY:

- This is an application for the review of a premises licence.
- The current premises licence holder is Sirmani Foods Ltd; the Designated Premises Supervisor is Mr Stefan Mania.
- Mrs Sonia Jackson is calling for a review of the premises licence under the licensing objective 'prevention of public nuisance'.

Is the report Open or Exempt?	Open
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Wards Affected:	Eastern Felixstowe
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Cabinet Member:	Councillor Mike Ninnmey, Cabinet Member with responsibility for Community Health
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Supporting Officer:	Teresa Bailey Licensing Officer 01394 444364 Teresa.Bailey@eastsoffolk.gov.uk
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1. EXISTING LICENCE

1.1 Sirmani Foods Ltd is the premises licence holder and Mr Stefan Mania is the Designated Premises Supervisor at Alba Chiara, 91-93 Undercliff Road West, Felixstowe. A copy of the current premises licence is attached as **Appendix A** and the plan that accompanies the premises licence is attached as **Appendix B**.

2. REASON FOR HEARING

2.1 In accordance with the Licensing Act 2003, an 'other person' has made an application for a review of the premises licence relating to Alba Chiara, Felixstowe to consider a ban on smoking on the terrace and the playing of music outdoors.

2.2 The premises licence holder and all the Responsible Authorities who are named consultees to a licensing review have been provided with a copy of the application. The application will also be made available to the Licensing Sub-Committee panel, this is attached as **Appendix C**.

2.3 Summary of grounds for review:

This review has been called under the grounds of the licensing objective of prevention of public nuisance.

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.

3. POINTS FOR CONSIDERATION

3.1 The Environmental Protection Team, a Responsible Authority under the Licensing Act 2003, have not submitted a formal representation to the application. They have, however, submitted comments which the Sub-committee may consider. The comments are attached as **Appendix D**.

3.2 10 representations have been received in support of the review application. These are attached at **Appendix E**.

3.3 One representation in support of the premises has been received and this is attached at **Appendix F**.

3.4 The Premises Licence Holder, Sirmani Foods Ltd, has made written comments in response to the application for review. Mr Mania's comments are attached at **Appendix G**.

3.5 In exercising its licensing functions, the Licensing Authority has stated in its licensing policy that it will primarily focus on the direct impact of the licensable activities taking

place at the licensed premises on members of the public living, working or engaged in normal activity in the vicinity of the premises.

3.6 The attention of the Sub-Committee is drawn to the following:

- a) The Licensing Act 2003 Section 4 requires the Sub-Committee to have regard to:
 - Guidance Issued under Section 182 of the Licensing Act 2003.
 - The Council’s Statement of Licensing Policy

If the Sub-Committee has reason to depart from the above it is asked to give full reasons for so doing.

- b) Human Rights Act 1998

The Human Rights Act 1998 came into force on the 2 October 2000. The Sub-Committee is urged to have careful regard of its provisions.

It is unlawful for a public authority (this expression includes local authorities) to act in a way which is incompatible with a human right.

As far as the applicant’s right to a fair hearing is concerned (Article 6), the applicant has a right to be heard by the Licensing Sub-Committee. If this application is refused or granted subject to modification, the applicant has a right of appeal to the Magistrates’ Court.

In assessing the impact of human rights, the Sub-Committee must seek to strike a balance between the right of the proprietors in the business to conduct it as they wish and local residents who may find its activities intrusive. In this context a business is a “possession” and the human right is expressed to be for the “peaceful enjoyment” of it. A rider to this human right empowers the Council to control the enjoyment of that business by its proprietors in the general interest. At the same time, local residents are entitled to the peaceful enjoyment of their homes.

3.7 The relevant notices about this hearing have been served on the applicant and the premises licence holder and they have until 17 August 2023 to confirm that they intend to attend (or not) as the case may be and give notice that they wish to call witnesses.

4. CONCLUSION

4.1 The Sub-Committee will be asked to determine this application by:

- **Modifying the conditions of the licence**

This could include either imposing further conditions on the licence or changing (for example, further restricting) the hours of certain licensable activities, where this is proportionate and relevant to the licensing objectives.

For this purpose, the conditions of the licence are modified if any of them are altered or omitted, or any new condition is added.
- **Excluding a licensable activity from the scope of the licence**

The sub-committee may decide that it is proportionate and relevant to the licensing objectives to remove one or more of the licensable activities.

- **Remove the Designated Premises Supervisor (DPS)**
- **Suspend the licence for a period not exceeding three months.**
- **Revoke the licence.**

4.2 If the decision reached by the Sub-Committee results in differences between the conditions attached to the licence and the planning permission currently in force for these premises, the applicant should be advised that the planning permission must be adhered to unless and until it is amended to reflect the conditions attached to the licence.

4.3 Depending on the decision of the Sub-Committee, the applicant and / or responsible authority and interested parties that have made representations have rights of appeal to the Magistrates Court.

4.4 When announcing its decision, the Sub-Committee is asked to state its reasons.

APPENDICES	
Appendix A	Current premises licence
Appendix B	Plan of premises
Appendix C	Application for review
Appendix D	Comments from Environmental Protection Team
Appendix E	Representation in support of the review (private document for the Sub-Committee only).
Appendix F	Representation in support of premises (against application) (private document for the Sub-Committee only).
Appendix G	Comments from Premises Licence Holder

BACKGROUND PAPERS	
None	

Licensing Act 2003
Premises Licence

PREM2185 ES/1628

LOCAL AUTHORITY	
 EASTSUFFOLK COUNCIL	<p>East Suffolk Council East Suffolk House Riduna Park Station Road Melton Woodbridge IP12 1RT</p> <p>tel: 01394 444802 web: www.eastsuffolk.gov.uk</p>

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION	
<p>Alba Chiara Restaurant 91-93 Undercliff Road West, Felixstowe, Suffolk, IP11 2AF.</p>	<p>Telephone 07507 732911</p>

WHERE THE LICENCE IS TIME LIMITED THE DATES
Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE
- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES			
Activity (and Area if applicable)	Description	Time From	Time To
J. Supply of alcohol for consumption	ON the premises only Monday to Sunday	10:00am	11:00pm

THE OPENING HOURS OF THE PREMISES			
	Description	Time From	Time To
	Monday to Sunday	10:00am	11:00pm

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES
- J. Supply of alcohol for consumption ON the premises only

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE	
<p>Sirmani Foods Ltd sirmanifoods@gmail.com</p>	<p>Unit 3c, The Gattinets, Hadleigh Road, East Bergholt, CO7 6QT. Telephone 07507 732911</p>

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)
<p>Sirmani Foods Ltd 12245240</p>



Licensing Act 2003

Premises Licence

PREM2185

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORIZES THE SUPPLY OF ALCOHOL

Stefan Jan MANIA



PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORIZES FOR THE SUPPLY OF ALCOHOL

Licence No. 096620

Issued by Colchester



Premises Licence

ANNEXES

ANNEX 1 - MANDATORY CONDITIONS

Where a premises licence authorises the sale of alcohol, the licence must include the following conditions:

1. (1) No supply of alcohol may be made under the premises licence -

- At any time when there is no designated premises supervisor in respect of the premises, or
- 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.

2. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises-

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

3. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

4. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either-

- (a) a holographic mark, or
- (b) an ultraviolet feature.

5. The responsible person must ensure that-

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-



Premises Licence

ANNEXES continued ...

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

6. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

6.1 For the purposes of the condition set out in paragraph 1

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) “permitted price” is the price found by applying the formula-

$$P = D + (D \times V)$$

where-

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

6.2 Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

6.3 (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE



ANNEXES continued ...

General

1. All staff will receive training so that they are aware of the premises licence & the requirements to meet the four licensing objectives with particular attention to:
 - No selling of alcohol to underage people
 - No drunk & disorderly behaviour on the premises area
 - Vigilance in preventing the use of illegal drugs at the retail area
 - No violent & antisocial behaviour
 - No harm to children
2. Staff training records will be kept at the premises and refresher training will be undertaken with staff on a regular basis. Staff training records will be made available upon request to officer of responsible authority.

Prevention of crime and disorder

1. The Licence holder shall install and maintain a CCTV system on the premises which must record at all times the premises are open to the public. The recording must be kept for a minimum of 28 days and be available for inspection by an authorised officer on reasonable demand.

Public safety

1. The licence holder shall ensure that an incident log will be maintained at the premises to record all incidents. All Staff will be trained in its use and an entry for each incident will be entered into the register within one hour of the incident taking place and will show the date, time and a description of the incident. Each entry will be kept in the log for a minimum of 12 months and must be made available for inspection by an authorised officer of the local authority or an authorised member of Suffolk Constabulary immediately upon request.

Prevention of public nuisance

1. The licence holder shall display clear and legible notices requesting patrons to respect nearby residents and leave the premises quietly.

Protection of children from harm

1. The Licence holder shall ensure that no children under the age of 16 years are allowed on the premises after 9pm unless accompanied by an adult.

ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

LOCAL AUTHORITY



East Suffolk Council
 East Suffolk House Riduna Park
 Station Road Melton
 Woodbridge
 IP12 1RT

tel: 01394 444802
 web: www.eastsuffolk.gov.uk

Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Alba Chiara Restaurant

91-93 Undercliff Road West, Felixstowe, Suffolk, IP11 2AF.

Telephone 07507 732911

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
J. Supply of alcohol for consumption ON the premises only	Monday to Sunday	10:00am	11:00pm

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	10:00am	11:00pm

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption ON the premises only

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Sirmani Foods Ltd

Unit 3c, The Gattinetts, Hadleigh Road, East Bergholt, CO7 6QT.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

Sirmani Foods Ltd

12245240

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Stefan Jan MANIA



STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

Not applicable



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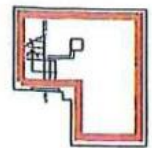
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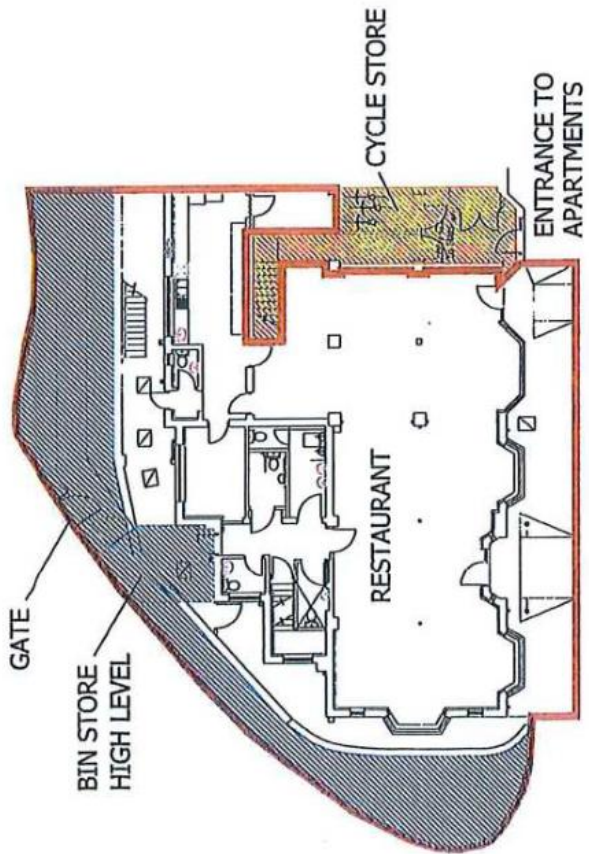
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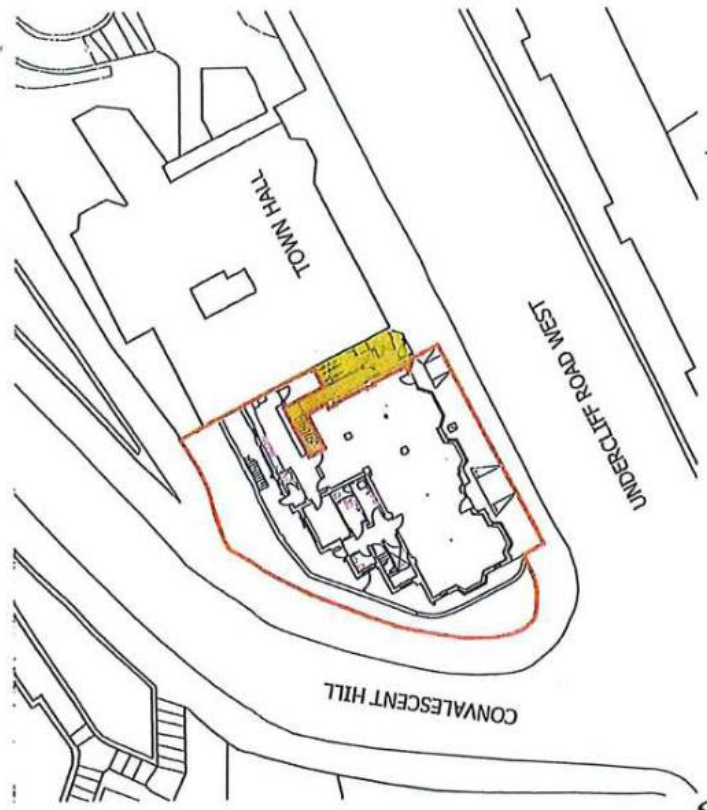
**BASEMENT FLOOR PLAN
1:100**



**GROUND FLOOR PLAN
1:100**



SITE PLAN 1:1250



BLOCK PLAN 1:200

[Handwritten signatures]



Agenda Item 5
1628

RICHARD WEST ARCHITECTURAL DESIGN LTD
Richard West BSc
Chartered Surveyor
25 Riverside Way, Rye, East Sussex, TN37 4YU
Tel: 01323 810000
Email: r.west@richardwest.co.uk
Website: www.richardwest.co.uk

**AS UNDERCLIFF ROAD, FLEAHOUSES
CONVERSION TO RESTAURANT AND FLATS**

Author	Client	Date	Scale
Richard West	COLWAY PROPERTIES LTD	15/07	1:200
Checked	Project No	12/L1	1:200
Drawn	Drawn By		
15-07	12/L1		

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

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

Name of premises licence holder or club holding club premises certificate (if known) Stefan Mania (Sirmani Foods Ltd)

Number of premises licence or club premises certificate (if known) 040984

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)

3) a member of the club to which this application relates
(please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick yes

Mr Mrs Miss Ms Other title
 ✓

(for example, Rev)

Surname	First names
Jackson	Sonia Jayne

Please tick yes

I am 18 years old or over

Current postal address if different from premises address	Flat 2 95 Undercliff Road West	
	Post town	Post Code
	Felixstowe	IP11 2AF

Daytime contact telephone number	[Redacted]
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E-mail address (optional)	[Redacted]
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(B) DETAILS OF OTHER APPLICANT

Name and address David Jackson Flat 2 95 Undercliff Road West Felixstowe IP11 2AF
Telephone number (if any) [Redacted]
E-mail address (optional) [Redacted]

(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 2nd 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
.....

Date
.....

Capacity
.....

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

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.

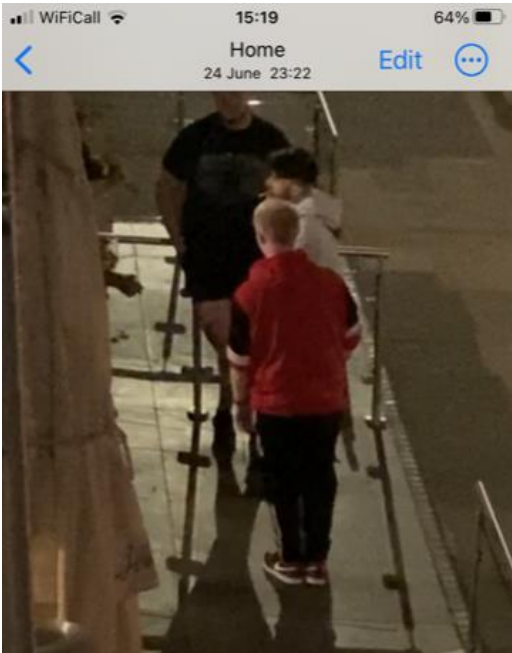


Photo taken at 11.22pm showing staff smoking, drinking and talking under our bedroom windows (Other videos and photos available). Staff were aware that we were filming.



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

Date Received: 11.07.2023
Our ref: 23/05794/LICCON

Responded:24.07.2023
ORDK

ES/1628

Your Ref:

RE: 91 - 93 Undercliff Road West, Felixstowe, Suffolk, IP11 2AF,
Good afternoon

We have received a review application for Alba Chiara, Felixstowe.

I have attached a copy of the current licence for reference.

Consultation periods ends on 8th August 2023.

Kind regards

Jodie

Thank you for your consultation regarding the above application. The Environmental Protection Team's comments are given below.

Thank you for your consultation in respect of this premises licence review called by a member of the public. This response is from the Environmental Protection Team in relation to the licensing objective the 'Prevention of Public Nuisance' and refers only to licensable activities within the review application, and specifically noise.

I note that these are a restaurant premises with residential flats above along the Felixstowe Seafront. I understand that there are no planning conditions/controls over music at the premises played either internally or externally.

In terms of the premises licence, there are no specific conditions regarding the playing of live or recorded music inside or outside within the licensable area. At this time therefore the restaurant is permitted to play live or recorded music until 23:00 hours provided that this doesn't cause a statutory noise nuisance (i.e. Environmental Protection Act 1990, and not public nuisance as per licensing regime).

I can confirm that the Environmental Protection Team currently have an open noise complaint for investigation. As part of this investigation into statutory noise nuisance, a monitoring visit was undertaken on 17th June 2023. On this evening visit, low-level music only was observed playing from speakers beneath umbrellas on the external seating area. The music was considered as background music only and not at a level that would be considered licensable. This music was not audible very far from the restaurant, though could have been audible at the residential flat at first floor above.

At this time therefore we do not have evidence of a noise nuisance from these premises though will potentially undertake further monitoring visits and provide additional advice to the restaurant operator.

The operator would be advised to consider that although they are in a seafront location, they do have residential use directly above, and therefore must ensure no unreasonable disturbance. Similarly, residents

living above a commercial (in this case licensed) premises must accept that there will be some associated noise and other activity.

Outdoor music, even at low levels, is higher risk than music played indoors particularly later in the evening. That may mean they ought to consider switching off the background music earlier in the evening, and particularly if there are no customers on the outside seating area. The licensing team may wish to pass this advice on to the licence holder in this case, and is likely to be reinforced by the Environmental Protection Team is direct dialogue with the licence holder/restaurant operator.

In conclusion, at this time the Environmental Protection Team do not have any evidence sufficient to make a representation at the review hearing.

Regards,
Environmental Health Officer



Licensing Act 2003: How to make a Licensing Representation.

Criteria for making a representation

Under the Licensing Act 2003, any person is able to make written representation in relation to certain types of applications. However, for a representation to be considered relevant, it must address the likely effect the granting of the application will have on the promotion of one or more of the following licensing objectives:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

Representations must relate to the impact of licensable activities carried on from the premises on those objectives listed above. By way of an illustrative example: *"...a representation from a local business person about the commercial damage caused by competition from a new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant."*

Please also be aware that the Licensing Authority will not consider representations that are frivolous (ones that display a lack of seriousness in purpose or nature) or vexatious (ones that are intended to cause aggravation or annoyance whether to a competitor or other person, without reasonable cause).

Making a representation

Relevant representations must be in writing and submitted to the Licensing Authority within the 28-day notice period. Late representations will not be considered and will be returned.

Once a representation has been accepted by the Licensing Department it will ultimately become part of a hearing report, which is a public document. Unless there are any genuine and well-founded fears of intimidation representations will be published with names and addresses attached.

If you are unsure when the application was made, you can view the Council's website to access the list of current applications. Alternatively, you can look at the site notice posted at the premises which advertises the application. If you would like information about licences already in force there is a public register of licences on the Council's website or you can contact the Licensing Team at East Suffolk on 01394 444802.

Attached at the end of this guidance note there is a 'Representation Form' which can be used, if you wish, to assist you when making representations. The form is designed to help extract the type of information which is required to ensure the representation is relevant and therefore, can be accepted. Letters or emails are also acceptable but must contain all the relevant information.

Alternatives to making an individual representation

If you do not want to make your own representation, then you may wish to consider approaching a representative who may consent to make the representation on your behalf. For example, you may wish to ask a local Councillor or any other recognised body or association. If you are unsure about whom you can approach in your area, please contact the Licensing Team – we will be happy to offer advice.

If your chosen representative is willing to act on your behalf, you must submit a letter of authorisation to the Licensing Department as part of your representation. You must provide your chosen representative with your name, address and details of the grounds upon which your representation is made. They should then submit written representation to the Licensing Authority replicating the grounds upon which your representation is made.

Please note that all future dialogue and correspondence will be held with your representative, and the Licensing Authority will not be in a position to make direct contact with you. Consequently, the Notice of Hearing and any decision notice will also be sent to your representative.

Petitions

When organising/submitted a petition as part of your representation, there are some important factors to bear in mind:

- We ask that the instigator of the petition identifies themselves as a central point of contact, as we may need to make contact in order to verify certain matters and if we are unable to do so this could invalidate the petition.
- Each page of the petition should contain information as to the purpose of the petition so that all persons know what they are signing.
- Full names and addresses for each signatory must be provided.
- All signatories must be made aware that where representations are made and not withdrawn, a copy of the petition will be supplied to the applicant and a copy will be contained within the committee papers.

The Licensing Authority will not write to each signatory separately but instead expects that the instigator of the petition will advise each signatory of the hearing date and the final outcome of the application. It is also expected that the instigator will represent signatories at the hearing and will speak for them.

Disclosure of personal details of persons making representation

Where a Notice of Hearing is given to an applicant, the Licensing Authority is required to provide that applicant with copies of the relevant representations that have been made. It is only in exceptional circumstances that personal details will be removed from representation correspondence.

We would refer you to Government Guidance on this matter, which states:

In exceptional circumstances, persons making representation to the licensing authority may be reluctant to do so because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant. Where licensing authorities consider that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, they may wish to consider alternative approaches. For instance, they could advise the persons to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified.

The licensing authority may also decide to withhold some or all of the person's personal details from the applicant, giving only minimal details (such as street name or general location within a street). However, withholding such details should only be considered where the circumstances justify such action.

Hearings

If the Licensing Authority decides that representations are relevant, it must hold a hearing to consider them. In the meantime, the Licensing Authority, the applicant and any person or body who has made representation can negotiate an agreeable way forward, and where written agreement is reached between all parties, the hearing may be cancelled.

The Licensing Authority strongly encourages all parties to mediate, and will assist, where possible, in the facilitation of mediation discussions.

Where agreement cannot be reached, the hearing will take place before a Licensing Sub-Committee, which is made up of three Elected Members from the Council's Licensing Committee.

The applicant, persons making representation, and any responsible authority will receive a Notice of Hearing. The Notice will set out the date, time and location and explains the procedure to be followed at the hearing. The Notice will be sent out within the prescribed statutory timescales. Please note that you are required to respond to this Notice.

All parties who have submitted a representation will be able to address the Sub-Committee. No new grounds of objection may be raised at this stage and parties are limited to speaking to matters outlined in their original representation and response to Notice of Hearing, although detail provided may be expanded upon.

Where you have chosen to use a representative, only they may speak on your behalf. However, Members may still wish to direct questions to applicants, even in cases where they are represented.

Please note that parties will all be given an equal amount of time in which to address the Sub-Committee, but that time period may be limited by the Chairman of the Sub-Committee – for example, where there are numerous objections, speaking time may be limited to 5 minutes, or the Chairman may request, where lots of similar representations have been made, that a spokesperson is nominated.

Please be assured that if for any reason you are unable to attend the hearing, the Sub-Committee will still consider your written representation.

The Sub-Committee will normally announce their decision at the hearing, and written confirmation will be distributed to all parties following the hearing.

If any party is aggrieved by the decision, an appeal may be made to the Magistrates' Court. An appeal has to be commenced by the appellant giving notice of appeal to the designated officer for the magistrates' court within a period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision which is being appealed.

LICENSING REPRESENTATION FORM

Section 1: Licence Application Details

I wish to **object** to the following application ~~7 I wish to support the following application~~

NAME OF APPLICANT (if known):

Sonia Jakson _____

PREMISES NAME AND ADDRESS

Alba Chiara 91-93 UNDERCLIFF ROAD WEST, Felixstowe _____

POSTCODE IP11 2AF _____

Section 2: Your Details

[If you are acting as a representative, please go to Section 3]

TITLE Mr 7 Mrs 7 Miss 7 Ms 7 Other (please state) _____

SURNAME Mania **FORENAMES** _____

ADDRESS

POST CODE _____

[You must provide your full residential address /or business address if your objection relates to the impact of the licence upon your business premises]

SECTION 3: Representative Details

[If you represent residents or businesses, please complete the details below]

NAME OF REPRESENTATIVE/ORGANISATION

SIRMANI FOODS LTD / trading as Alba Chiara _____

POST CODE _____

I AM (tick as appropriate):

7 Representative of residents association

7 Representative of trade/business association

7 Ward Councillor Other (please specify)

7 MP

Section 4: Reason(s) for Representation

Under the Licensing Act 2003, for a representation to be relevant it must set out the likely effect of granting the application on the promotion of the four licensing objectives. Any representations that are considered to be frivolous or vexatious will not be accepted.

It is important that you set out any personal experiences as these will be considered as relevant.

Please fill in the reason(s) for your representation in the space provided below under each of the Licensing Objectives (where relevant).

You need to give as much detail as possible so that the Licensing Authority can assess the relevance of your representation.

Please attach any supporting documents/further pages as necessary, numbering all additional pages. Try to be as specific as possible and give examples, where possible.

Licensing Objective	Reason for Representation
<p style="text-align: center;">Prevention of Crime and Disorder</p>	<p>I just wanted to mention that since we have opened in February 2020, since then we have served over 60,000 guests without having any complaints regarding crimes or disorders caused or related to our premises. Though through the years we were a victim of aggression by other members of the public, we have always kept calm, reminding our staff that we are here to deliver Hospitality, which for us means restoring the well-being of our guests by providing good food and drinks within a familiar environment. actually, it was the applicant that has recently threatened to call the Police and demanded, in an unpolite manner to restrict our activities.</p>
<p style="text-align: center;">Prevention of Public Nuisance</p>	<p>Regarding the nuisance due to the outdoor background music, we are sorry if this gives discomfort to our neighbors. we suggest they install an air conditioning unit, as we and other residents above us have, so that they do not have to change their bedroom. My staff has been accused of antisocial behavior for having a drink at the end of the service and in my opinion is the contrary of that, as long as we keep a decent behaviour, the accusations were made on a Saturday night when on this street there are costumers of a night club, 4 bars, 2 other restaurants and a theater on a seafront promenade. We constantly allow members of the public to use our toilets, since the public ones are shut in the evening. Please also check the reviews of our restaurant on all platforms: Google, The Fork, Tripadvisor, Table agent, etc.</p> <p>The umbrellas were installed by us, 2 years ago, to protect the residents above from the nuisance but I would be more than happy if the landlord would want to install a veranda to offer a better protection.</p> <p>In the application there are false statements and breach of GDPR laws regarding our Lease contract and false allegations like:</p> <ul style="list-style-type: none"> -the complaint regarding improper waste storage attracting pests, including flies and rats Ref: 23/05272/FDADVI. At our first event of pests, during the lockdown of 2020, we have engaged a pest control company and since then we have continuously monitored our premises and the whole building without charging any expenses on the property management. - we have signs on both of our main exits with the following statement "please keep quiet when leaving the premises and avoid disturbing local residents" -allegations of using illegal or intoxicant substances. -I did offer to turn off the music outside as usual when we have no guests outside but under threat and abusive behaviour my staff might have forgotten my instructions, we have anyway an alarm in place to turn off the air conditioning units and the music before 11pm, as per our license and planning permission. <p>It is also wierd how there are no complaints during the winter period when we do not have guests outside though the business rates are charged for the entire premises. I understand safeguarding the residents but you must also consider that this company provides jobs and our activities affect also our staff.</p>

<p style="text-align: center;">Public Safety</p>	<p>As the CCTV system of the building dose not work we have installed our own as requested on our license.</p>
<p style="text-align: center;">Protection of Children from Harm</p>	

I Stefan Mania, hereby declare that all information I have submitted is true and correct

SIGNED _____

DATED 11/07/2023

Please send the completed form to:

Licensing Department
 East Suffolk Council
 Riverside
 Canning Road
 Lowestoft
 NR33 0EQ

Tel: 01394 444802

Email: licensing@eastsoffolk.gov.uk

This form must be returned within the statutory period which is generally 28 consecutive days from the date the Public Notice was displayed on the premises. Please contact the Licensing Team for confirmation of the date.